

N.22S1
151/CL

CO 1916 of 2026

Ankit Saraiya

v.

Pooja Saraiya Nee Churiwal

24.06.26
DL-02
Ct-06
(S.R.)

Mr. Jishnu Chowdhury, Sr. Adv.
Mr. Debanjan Mandal
Mr. Sanjiv Kumar Trivedi
Mr. Soumabho Ghosh
Mr. Sanket Sarawgi
Mr. Ratul Das
Ms. Sanskriti Agarwal
Mr. Arjun Ray ... for the petitioner.

Mr. Aniruddha Chatterjee, Sr. Adv.
Ms. Nandini Khaitan
Mr. Pratik Shanu
Mr. Soham Sarkar ... for the respondent.

1. This revisional application is directed against an order dated June 15, 2026 passed by the learned Additional District Judge, 9th Court, Alipore, South 24-Parganas whereby the petitioner's application for temporary custody of his minor child, namely, Reyansh Saraiya during the ongoing annual summer vacation of the child, has been disposed of with certain conditions.
2. The parties are contesting a custody dispute regarding their minor child. The petitioner has instituted Matrimonial Suit No.36 of 2021 before the learned Additional District Judge, 9th Court at Alipore for dissolution of marriage.
3. In the said suit, the petitioner has filed an application seeking custody of the minor child,

which has been registered as Misc. Case No.318 of 2021. In the said Misc. Case an application for temporary custody of the child (during the ongoing summer vacation of the child) was also filed by the petitioner. Such application has been disposed of by the order impugned thereby allowing the petitioner to have temporary custody of the child from June 22, 2026 to July 6, 2026 on certain conditions.

4. The petitioner is aggrieved by the condition that, in case, the petitioner has to stay at any place other than his residence during night, he would be required to hand over the minor child to the opposite party and shall be entitled to take the child back only upon his return to his residence, provided such return is within the period of the temporary custody granted by the learned Trial Court.
5. Mr. Chowdhury, learned senior advocate appearing for the petitioner submits that the application for temporary custody was for the child to have company of the petitioner and the petitioner's family members. It is submitted that in such view of the matter, the condition imposed on the petitioner to return the child, in case, the petitioner stays a night anywhere else than the petitioner's residence is improper.
6. Mr. Chatterjee, learned senior advocate appearing

for the opposite party submits that the petitioner's prayer itself is for having the temporary custody of the child such that the petitioner and the petitioner's parents both are there with the child together. It is submitted that in such view of the matter, the learned Trial Court is quite justified in imposing the condition that it has done.

7. It is further submitted that the child itself is unwilling to stay alone with the paternal grandparents and, as such, no interference is called for with the conditions imposed by the learned Trial Court.
8. Heard learned senior advocates appearing for the respective parties and considered the material on record.
9. The idea of granting temporary custody to the non-custodial parent is to foster a relationship between the child and the non-custodial parent as well as the grandparents. The child is nine years old and should therefore be expressive.
10. In such view of the matter, while temporary custody has rightly been granted to the petitioner, in the facts of this case, this Court feels it proper to observe that it should be left to the child to decide as to whether the child would like to stay/spend any night with the grandparents in the absence of the child's father i.e. the petitioner or not.

11. As has already been observed by the learned Trial Court, the opposite party/mother would always have telephonic access to the child in terms of the order impugned.
12. It is, however, observed that even if the child wishes to stay/spend a night with his grandparents in absence of the child's father it would be incumbent on the petitioner to return to his residence after spending one night anywhere else than the residence. That is to say that, at best, the child may stay with the grandparents in the absence of the petitioner/father (subject to the child's wish) only for one single night at a stretch.
13. Needless to mention that the petitioner will inform the opposite party, in case, the petitioner is required to stay outside his residence or anywhere else than the petitioner's residence for any night, well in advance.
14. The order impugned stands modified only to the extent indicated above without any other interference. It is clarified that all the other terms and conditions mentioned in the order shall remain unchanged.
15. Since in view of the pending revisional application, the petitioner did not take custody of the child on June 22, 2026 the temporary custody of the petitioner shall stand extended to July 8, 2026 instead of July 6, 2026. The timings as

regard the taking over of the child and returning the child as mentioned in the impugned order would be remain unchanged.

16. With the aforesaid observations, CO 1916 of 2026 stands disposed of. No costs.
17. Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Om Narayan Rai, J.)