

Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Supratim Bhattacharya

FMAT 521 of 2025
IA No: CAN 1 of 2025

Mrs. Manjari Bhattacharjee
Vs.
Mr. Nirvik Banerjee

For the appellant : Mr. Sabyasachi Chatterjee,
Mr. Pintu Karar,
Mr. Sabab Uddin Haskar,
Mr. Sourav Roy,
Ms. Meghna Chowdhury

For the respondent
no. 1 : Md. Manuwar Ali

Heard on : 24.12.2025 & 06.01.2026

Judgment on : 06.01.2026

Sabyasachi Bhattacharyya, J.:-

1. In view of questions of both fact and law being involved, the appeal is admitted to be heard on the grounds taken in the memorandum of appeal. Since the issues involved in the appeal are short, we take up the appeal itself for hearing along with the connected application.
2. The present appeal arises against an order passed by the learned Trial Judge in an Act VIII case filed by the respondent-father for custody of

the minor son of the parties, who is aged about six years and lives with his mother, the appellant.

3. By the impugned order, the learned Trial Judge directed the appellant herein, that is, the mother of the child to hand over the son Nikunj Banerjee to the respondent-father in the evening from 5.30 p.m. of every Friday and that the minor child would stay with the father till the evening of every Sunday, that is, up to 5.30 p.m.
4. Learned counsel for the appellant-mother argues that the child is special, in the sense that he is suffering from Autism Spectrum Disorder (ASD) and, as such, the minor is even unable to chew his food by himself and has to be fed by the mother.
5. Under such circumstances, it is contended, if the custody of the child is given over the weekend to the respondent-father, it would be detrimental to the welfare of the child and precarious situations might arise in respect of the health condition of the child, since the respondent-father is not properly equipped to deal with the ailment of the child and the special needs arising out of it.
6. Learned counsel for the respondent-father takes a reasonable stand by submitting that even if custody over the weekend is not given, the father may at least be given visitation right once every week for about two hours. However, it is submitted that in view of criminal complaints having been lodged by the appellant-mother against the respondent-father, it would not be appropriate, due to the acrimony prevalent between the parties, to direct the visitation to be held at the

residence of the appellant-mother. Some neutral place, as such, is sought to be fixed for such visitation.

7. Upon hearing learned counsel for the parties, we appreciate the fairness shown by counsel in taking a reasonable stand regarding the visitation rights of the minor. We are of the opinion that for healthy upbringing of a child, the company of both the parents is necessary and, as such, two hours' visitation every weekend by the father would be appropriate. However, such visitation should be held at a common place congenial to the mental health of the six years-old child.
8. Accordingly, FMAT 521 of 2025 along with CAN 1 of 2025 are disposed of by modifying the impugned order, bearing Order No. 7 dated December 15, 2025 passed by the learned Additional District Judge, Seventh Court, Barasat, District: North 24 Parganas in Miscellaneous Case No. 99 of 2025 (Act VIII), to the extent that instead of having custody over the weekend, the respondent-father shall visit the minor child Nikunj Banerjee every Saturday from 04.00 to 06.00 p.m. Such visitation shall be held at the Eco Park in New Town, which is a spacious urban park having a large green space featuring theme gardens, recreational areas, boating and other recreational facilities and play areas fit for a child, situated near the residence of both the parties and also congenial to the requirements of a child.
9. For such purpose, the appellant-mother shall take the child to the Eco Park, at a particular designated gate thereof which will be pre-

decided by the parties, sharp at 04.00 p.m. every Saturday, starting from next Saturday, that is, January 10, 2026.

10. From there, the respondent-father shall take over the child and spend some quality time with the child within the precincts of the Eco Park till 06.00 p.m. By 06.00 p.m., however, the father will return the child to the mother at the same gate from where the child was picked up by the father on every such occasion. In the event the said park is closed on any Saturday, the parties will decide among themselves, upon prior consultation, an alternative day, preferably the very next Sunday, for such visitation during the same hours.
11. We express hope and trust that both the parents shall cooperate with each other and behave responsibly insofar as the needs of the minor child are concerned. In the event there is any serious or insurmountable difficulty on the part of the child or the parties in such visitation, it will be open to the parties to approach the learned Trial Judge for further orders/modification of this order.
12. For such purpose, the learned Trial Judge will be at liberty, if deemed necessary, to modify the visitation right as directed by this Court upon assigning proper reasons for doing so.
13. During such visitation, the appellant-mother shall not be present with the respondent-father and the child and shall not interfere with such visitation during the said appointed two hours in any manner whatsoever.
14. There will be no order as to costs.

15. The parties and all concerned shall act on the server copy of this order for the purpose of compliance.
16. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)