

Act VIII Case No.03 of 2017

Present : Jayashree Banerjee, Chief Judge

Order No.51, dated 22.12.2022:

This is a Case where the maternal grandfather and the paternal grandfather are at war seeking custody of their minor grand daughter Ritaja Mondal.

It was submitted by the petitioner that the parents of Ritaja Mondal expired in an accident and the maternal grandfather could not rush to the spot where accident had occurred as the spot was near to his residence. In the said accident all the passengers of the vehicle expired save and except the child Ritaja Mondal. The child was rescued by the maternal grandfather and since then is in custody of the maternal grandfather.

The paternal grandfather expected that the maternal grandfather will send the child to the family of paternal grandfather since the child belongs to his family being the only daughter of his deceased son but the child was not sent by the maternal grandfather.

Be that as it may as the child was not returned by the maternal grandfather to the paternal grandfather she is being brought up by the maternal grandfather who is now seven (7) years of age. During the course of argument it transpired that the parties are litigating on the subject of guardianship of the minor child and various courts' order - this court as well as the Hon'ble High Court has been passed giving only visitation right to the paternal grandfather so far.

Presently, the paternal grandfather has preferred the instant petition which is being heard by the Court today, he has prayed for an order to pass time with his grand daughter with an undertaking to return the minor grand daughter to the custody of the opposite party maternal grandfather as and when the court directs and/or pass such other order/orders.

During the course of argument it further came out that the child is having her winter vacation and paternal grandfather wants to spend the winter vacation with the grand daughter.

It further came out during the hearing of the case that the maternal grandfather is a person of means though in his family there is none save and except him and a care taker of the child who has been appointed to look after the well being of the minor Rataja Mondal. It has also been submitted by the Ld. Counsel for the petitioner that presently for the purpose of this case a female relative of the maternal grandfather is staying in the family. Whereas in the family of the petitioner the petitioner along with his wife i.e. the paternal grandmother of the child and his other son, wife of the son and other family members are present in a word the petitioner has a full fledged family who are all related to the minor child but have little interaction with the child as she ordinarily resides with the opposite party maternal grandfather.

It is the settled Law that court while deciding cases for custody of minor child should see to the welfare of the child and the same should be given utmost priority while passing an order for custody of a minor child.

In the present case though the maternal grandfather is a person of means but he is not having a family to groom the child in all respect. Other than giving education and meeting the daily needs of life, to grow up the child also needs the warmth of her relatives to learn sharing and caring which can only happen when she is interacting with her family and relatives and not while growing up alone in the company of a care taker and a female who is remotely related to her in the house of her affluent maternal grandfather.

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Be that as it may, such fact shall be considered by this court in detail while disposing of the main matter for guardianship.

Today basing my reasoning on the above noted settled principles I allow the prayer of the petitioner i.e. the paternal grandfather to have custody of the child Ritaja Mondal from 24.12.2022 to 29.12.2022 and thereafter she shall be returned to the opposite party maternal grandfather as this court has been apprised that the school which the minor is attending at present reopens after the winter vacation on 4th January, 2023.

This Court has taken care of the fact that the child gets enough time to return to her maternal grandfather and settled in the house of the maternal grandfather before the school reopens and the maternal grandfather also gets an opportunity to spend rest of the vacation with the minor grand daughter Ritaja Mondal.

It is made clear that if there is any violation or non-cooperation on the part of the maternal grandfather to comply with this order, the petitioner paternal grandfather shall have the liberty to approach the local P.S seeking assistance and the Officer-in-Charge of the local Police Station shall give all assistance to the petitioner to take the custody of the child Ritaja Mondal for the period as mentioned hereinabove.

The application for temporary custody is thus considered and disposed of with the above directions.

Fix hearing of the main case on 30.01.2023.

Dictated & corrected by me,

Chief Judge

Chief Judge  
City Civil Court, Calcutta.