

Act VIII 27 of 2021
CNRno.01-001131-2021

Order no.22
13.10.2023

Both sides file hazira through Ld. Advocates. Ld. Advocates are present.

One written objection on affidavit is filed today on behalf of respondent against the petition u/s 151 CPC filed by the petitioner dated 27.09.2023.

Heard both sides. Considered.

Moving the petition, Ld. Advocate for the petitioner submits that as Durga Puja is nearing and as the female ward has her birthday on 17.11.2023, necessary order be passed by the Ld. Court permitting the petitioner father to keep his minor daughter from 20.10.2023 to 28.10.2023 (from Durga Sashti to Laxmi Puja) in his house at Arambagh and grant further permission to take his minor daughter for a dinner on the occasion of her birthday on 17.11.2023 in a Hotel Subhadeep Restaurant. Ld. Advocate also urged that the petitioner has no any problem if on both the occasions, the respondent wife joins him at his Arambagh house with the minor daughter as also in the said Hotel. Ld. Court may appreciate the situation and do proper justice to the petitioner. In the regard, the case decision of ***Himanshu Chordia Vs. Arushi Jain*** in connection with SLP (C) No.19072 of 2021 dated 20.05.2022 of the Apex Court is relied.

Resisting the above petition u/s 151 CPC, a written counter on affidavit is filed today on behalf of the respondent mother. The Ld. Advocate for the respondent on the flip side argued that the minor daughter never felt safe and comfortable during visitation time, the parties earlier had. How the torture upon the respondent and her daughter was perpetrated, is exposted in the case pending case u/s 498A IPC. In the event, the minor ward would be sent in the custody of the petitioner father, she might become victim of coercion and undue pressure and harassment. Moreover prior examination of the minor ward is needed before passing any order in the matter.

I have heard the parties in the matter under agitation. True that the minor ward is not brought today so that she could be studied. True that the Durga Puja is on the edge. Deferring the matter, might frustrate the petition on hand. Visitation order was already passed. I have noted that the occasion of Durga Puja and her birthday are upcoming. The inerrable aspect of not depriving the father from meeting and visiting with his own daughter on the forthcoming special occasions need be taken care of but with some condition. In other words, her access to her father should not be snatched, at this stage.

I have taken the guidance of the aforesaid case decision of the Hon'ble Apex Court. Courts are the see the situation from case to case. No any wrong antecedent of the petitioner father for having ill-treated, harassed or coerced the minor ward on any occasion or day, is placed before me.

As regards arranging a dinner party in a hotel at Arambagh, that can be permitted. But as regards keeping the child for some days in the custody cannot be permitted in my understanding. Such puja occasion is dealt in different way.

The necessary order in the matter is as under.

Hence it is,

Ordered

that the petitioner is permitted to arrange for a dinner in Subhadeep Hotel on the occasion of Birthday celebration there in the presence of the respondent mother with the condition that there would be no untoward incident there. He will bear the hotel expenses including their arrivals and departures.

that the petitioner shall arrange the arrivals of his minor daughter and his wife (mother of the ward) to his house at Arambagh on the occasion of only **Durga Ashtami and Laxmi Puja** and on no other festive days. He will bear their expenses of safe arrivals and safe departures including safe and peaceful stay in his home at Arambagh. Under no circumstances, he or the respondent will disturb the environment adversely affecting the minor's health and mind.

The respondent mother Suvra Dey is directed to bring her daughter on both the puja occasion and Birthday and not to disobey the court order.

The petition u/s 151 CPC is disposed of in the manner above on contest.

Parties are made aware of not delaying the trial of the main case.

To **16.12.2023** for PW Evidence without fail.

Sd/-

Additional District Judge
1st Court, Hooghly at Chinsurah