

Act VIII case no.27/2021
CNR No.WBHG-01-000601-2021

Order no.23 dt. 19.10.2023

The case record is put up by petition when allowed by the learned Court. One separate petition is filed u/s 151 CPC supported by affidavit and fresh power by the respondent/mother on the ground stated therein.

Copy served upon the petitioner/father.

Learned Advocate for the respondent/mother moving the petition submits that the operation of the order dated 13.10.2023 may be stayed by the learned Court u/s 151 CPC read with Order 41 Rule 5 CPC. The provisions of law are referred before me. That the child was the minor girl/ward was not queried by the learned Court before passing the order dated 13.10.2023. Such permission should not have been granted by the learned Court against the welfare of the child. It is the previous report during earlier visitations that the minor daughter was uncomfortable under duress as she throughout the visitation hours slept on the shoulder of her mother.

The learned Advocate for the petitioner/father put forward her contention on behalf of the petitioner/father. Such kind of petition is purposibely filed so that the operation of the order cannot be given effect. It is submitted that from that today is last date of court's functioning as long puja vacation will start from tomorrow. In the event verbal prayer of the petitioner/father is refused, the purpose of the order will get automatically frustrated. This is what the respondent/mother wishes for. No adverse report has come before the learned Court as to the allegation against the petitioner/father. Both the learned Advocates prayed for disposal of the petition on merits.

Now, let me dispose of the matter under agitation. Correct that vide order no.22 dated 13.10.2023, the respondent/mother was directed to comply the order dated 13.10.2023 and bringing her daughter on the occasion of Durga Austomi, Laxmi Puja and lastly on the occasion of the birthday of the minor daughter. It is apparent on the face of the record that vide order no.15 dated 03.04.2023 and vide order no. 10 dated 31.08.2023 visitation orders were already passed in contested form. Since then to till today nothing has been complained against the petitioner/father showing his misbehaviour and ill treatment upon the minor daughter during the visitation hours. The contention on behalf of the respondent/mother that taking into account, welfare of the child, without having any interaction with her minor daughter in the open

court, such order should not have been passed. This is not understood how come the welfare of the child would get prejudice for not interacting with the minor girl. On the date of the impugned order, the minor ward was not brought and granting another adjournment on 13.10.2023 would get automatically frustrated. Likewise in light of the principal order of visitation vide order no.15 dated 03.04.2023 and the impugned order dated 31.08.2023, the impugned order dated 13.10.2023 was passed.

In such view of the observations vide previous order dated 03.04.2023 and 31.08.2023, the present petition seeking stay of the operation of the order dated 13.10.2023 stands summarily **rejected**.

The petition, thus stands disposed of.

To date i.e. 16.12.2023.

Dictated & corrected by me

Sd/-
Additional District Judge,
1st ADJ. Chinsurah
J.O Code WB00753

Sd/-
Additional District Judge,
1st Court, Chinsurah.
J.O Code WB00753