

Act VIII case No. 86 of 2023

Order No. 13 dated 20/04/2024

Both parties files haziras through respective Ld. Advocates.

Today is fixed for hearing of the petition u/s 151 of CPC dated 27.03.2024 filed by O.P./father. Petitioner/mother files written objection today against the said petition.

The petition is taken up for hearing.

Heard the Ld. Advocate for the O.P./father who submitted that the petitioner/mother filed the instant case inter alia claiming guardianship and custody of the minor which he is contesting. He submitted that this Court vide No.5 dated 16.12.2023 directed the father to produce the minor child at Chinsurah Court premises enabling the mother to meet her son on 1st and 3rd Saturdays of every month for two hours and he has complied with such direction. He further submitted that the child is extremely unwilling to meet his mother and not ready to meet her any further and during such visitations he wept and became ill and had to be treated at Govt. hospital after such visitation on 03.02.2024 and 16.03.2024. He prays for vacating the said interim order dated 16.12.2023 passed by this Court for such reason.

Ld. Advocate for the petitioner/mother by pressing the written objection submitted that the visitation was not being made regularly. On one day the child was not produced at all and his client being the mother intimated the same to the Court by way of a petition. He further submitted that the child has been tutored and is residing in threatening environment under the custody of the father and he is subjected to intimidation and bodily punishment, as a result of which he probably is showing reluctance to meet the mother. It is further submitted that being at very tender age the child should have been under the custody of the mother only but the father is creating such situation both inside and outside his home, so that the child is exhibiting such behaviour. The medical documents are nothing but eyewash and those should not be given any credence to at this stage.

Considered.

It appears that the application u/s 12 of the Act has been filed by the mother which was disposed of vide order No. 5 dated 16.12.2023 wherein this Court permitted the petitioner/mother to meet her son on 1st and 3rd Saturdays of every month for two hours. The father was directed to produce the minor accordingly. In the petition u/s 12 of the Act, the interim custody of the minor was prayed by the petitioner/mother but this

Court only allowed visitation in the facts and circumstances of the case.

There may be some family discord and disharmony and acrimony between the couples but the Court is of the view that basic right of the mother to at least see the minor twice in a month does not appear to be inpragmatic and the mother is to undergo travel from a far off place at South 24-Parganas to visit the minor. The child is about 5 ½ years of age and there may be so many factors which may create hindrance for him to cordially accept the mother. The total picture may come to light during the trial on evidence. But in the facts and circumstances the Court is of the view that complete deprivation of the mother to see the child would create injustice to her and the child would also be distanced both physically and mentally from her which may be detrimental to his proper upbringing. Considering all these aspects the petition stands rejected.

The O.P./father is directed to meticulously follow the order passed by this Court dated 16.12.2023 without fail.

The petition is thus disposed of.

To date **(07.06.2024)** for hearing of the main application.

Dictated & corrected by me,

D.J.

District Judge, Hooghly.

