

Act VIII Case No. 76 of 2022

Order No. 10 dated 11.10.23

Today is fixed for hearing of the application u/s 12 of the Guardian and Wards Act dated 21.03.2023 filed by the petitioner/mother Smt. Payel Neogi.

Both parties file haziras through respective Ld. Advocates. O.P./father filed objection against the application u/s 12 of the Act. The minor is also produced.

The application u/s 12 of the Guardian and Wards Act is taken up for hearing.

Ld. Advocate appearing on behalf of the petitioner/father submitted that the parties of this case are legally married couple and the male child namely Rupanjan Neogi was born in their wedlock on 16.07.2015. It is alleged by the petitioner that she had to do all the household works at her matrimonial home and if she tried to take rest, the O.P. and his family members used to inflict torture both physically and mentally upon her. As a result the petitioner fell ill and she was not even provided with medicines and food. It is further alleged by the petitioner that the O.P. used to talk with some other lady and whenever the petitioner asked the O.P, about that lady he used to beat her up. The petitioner stated that amidst such torture she thought of committing suicide but thinking of her son she restrained herself from such act. The petitioner further stated that on 01.10.2021 at the time of lunch over a trifle matter the O.P. and his family members beat her and drove her out of the house snatching the child and all her stridhan articles. Since then the child has been living under the custody of his father. It is alleged that the child has been illegally confined in that house and being deprived of the company and love and affection of his mother which is not good for his well-being and proper upbringing. She being the biological mother and natural guardian has been deprived of meeting her son. So, she has prayed for temporary custody of her son.

The Ld. Advocate appearing for the O.P./father at the time of submission denied all the material allegations leveled against O.P. It is submitted that the it is the petitioner who took no responsibility of the child and she herself handed over the child to the O.P. The O.P. is taking proper care and the responsibility towards

the ward. She is a teacher by profession. The petitioner was not willing to continue the marital tie with the O.P. and she used to create mental pressure by saying attempting of suicide. The minor son is living under his custody happily in healthy atmosphere. With all these prayed for rejection of the prayer of the petitioner.

Considered.

Perused the petition. Though it is an application u/s 12 of the Act, yet from the prayer portion of the petition it is explicit that the petitioner has prayed for interim custody of the minor child. The child is under the care and custody of the father/O.P. for a considerable long period and whether the main petition u/s 25 of the Guardian & Wards Act can be allowed is dependent upon the trial on evidence. The petitioner has not been able to made out a prima facie case by which at this stage the son can be picked up from the custody of the O.P./father.

Be that as it may, this court after going through the entire case record is of the considered opinion that only visitation right should be considered and allowed in favour of the petitioner/mother at this stage by moulding the relief ,which according to this Court would be best for the welfare of the minor. There may be disputes and differences between the spouse but that does not mean that a mother would be deprived of to meet the son and the son also deserves the love and affection of the mother as well.

Considering the above, the court is of the opinion that the following order would meet the ends of justice.

Hence, it is

Ordered

That the instant application dated 21.03.2023 filed by the petitioner/mother Snt. Payel Neogi be and the same is allowed on contest without any order as to costs, though rendering other relief, beyond what was prayed for.

O.P/father Sri Rupam Neogi is directed to produce the minor child namely Rupanjan Neogi at Chinsurah Court premises to enable the petitioner/mother to meet her son twice in a month, i.e. on 1st and 3rd Saturday of every month for two hours from 3.00p.m. to 5.00 p.m. until further order. The parties shall maintain the

decency and decorum of the place during such visits and co-operate with each other so that no untoward incident may take place before the child.

The first of such visit is fixed on 21st October,2023 and since at that time the court is closed, they would visit in front of the court premises.

The instant petition is thus disposed of.

Fix **10.04.2024** for hearing of the case.

D/C by me,

D.J.

District Judge, Hooghly