

Order No. 51 dated 14.03.2024

Today is fixed for hearing of the petition dated 20.01.2023 filed by the O.P with a prayer for setting aside the order of *ex-parte* board of this case.

Copy of this petition had been duly served upon the Ld. Advocate for the petitioner.

Both parties are present and have filed their respective hazirahs.

Referring to the petition, Ld. Advocate for the opposite party submitted that after dissolution of her first marriage with the present petitioner, she has entered into second marriage and thereafter gave birth to a female child from that wedlock. Due to the same, she was unable to contact her Ld. Advocate and file written objection and proceed with this case. The petitioner being a '*pardanashin Lady*' belonging to Muslim Community was unable to arrange for Ld. Advocate during the lockdown period and even thereafter, as such could not take necessary steps for contesting this case. He therefore makes an earnest prayer before this Court for setting aside *ex-parte*-hearing of this case by permitting the O.P to contest this case.

Ld. Advocate for the petitioner raised strong objection and submits that the O.P has been constantly delaying the disposal of this case as a result she was show caused for several times. He raised strong objection to the petition so filed. Furthermore, he submits that the O.P is not complying with the directions of this Court with regard to the order passed regarding visitation rights of their son.

Seen the materials on record. Considered the submissions advanced by both sides,

This is a case under section 8 of the Guardians & Wards Act where the present petitioner being the father had made a prayer for securing the custody of their minor child born on 28.05.2012. In the interest of justice and fair adjudication, this Court is of the view that the present O.P being the mother should be permitted to contest this case as welfare of the minor child is the ultimate issue. Therefore, the petition dated 20.01.2023 is allowed on contest and disposed of.

The matter is shifted from the *ex-parte* board and the O.P is permitted to file written objection within the next date.

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Another petition has been filed on behalf of the present OP with a prayer for directing the petitioner to be present before this Court premises on every working Saturday along with their minor son so that the petitioner being the father can meet him as per the earlier order of this Court. He alleged that the OP has been deliberately violating such order passed by this Court.

Materials on record reflect that that an application U/s 12 of the Act was disposed by order no. 5 dated 27.01.2017. It also appears therefrom that the O.P had avoided and neglected to comply with such order. Before any further directions are passed, the O.P is directed to comply with the previous order with regard to Section 12 of the Act. The petition filed today on behalf of the petitioner is kept with the record at this stage.

Fixing 05/06/2024 for filing W/O by the O.P.

D/C by me.

Sd/-

Addl. Dist. Judge
(3rd Court), Hooghly
WB00891

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