

Misc. Case No.32 of 2020
CNR No. WBHW01-002950-2020
Present : Sri Plaban Mukherjee (J.O Code : WB01427)

Order No. 28,
Dated : 28.06.2024

Today is fixed for passing order.

The petitioner files hazira through Ld. Advocate.

The respondent files hazira through Ld. Advocate

Ld. Advocates of both sides are present.

Now, the case record is taken up for passing order.

At the time of argument, Ld. Advocate for the petitioner submitted that the marriage between the petitioner and the daughter of the opposite parties, namely, Peue Ghosh (since deceased) took place on 08.02.2014 according to Hindu rites and customs. Out of their wedlock, said Peue Ghosh gave birth of a male child, namely, Tunav Ghosh on 11.03.2015 at Command Hospital at Calcutta and he bore all the expenses relating to the delivery of the child of the petitioner. After returning from the Hospital, said Peue Ghosh started living in her father's house and joined in a partnership business with her father and she did not keep any conjugal relation with the petitioner since after her release from the Command Hospital i.e. on and from 14.03.2015. The petitioner is the natural guardian of the minor child Tunav Ghosh. Said Peue Ghosh had initiated false criminal cases against the petitioner and has also filed a Misc. Case No.598/2016 under the P.W.D.V Act, 2005 against the petitioner. It is further submitted that petitioner continued to pay the maintenance amount to his wife and for his minor child. But, in the meantime, the wife of the petitioner, namely, Peue Ghosh died on 26.02.2020 leaving behind the petitioner as the sole legal guardian of the minor child Tunav Ghosh. The Opposite party No. 1 and 2 are the grandfather and grandmother of the minor Tunav Ghosh. The petitioner is an Army Personnel having the rank of Captain, under the Central Government and has sufficient financial capacity to look after the betterment of his child. Accordingly, the petitioner prayed for directing the respondents to allow him/the petitioner to visit his child.

The respondent though filed written objection against the instant petition and categorically denied the allegation of the petitioner, but admitted the fact that the child, namely, Tunav Ghosh is the offspring of the petitioner and said Peue Ghosh. It is further submitted that several cases were pending in between the present petitioner and his deceased wife. It is also submitted that the mother

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of the ward on 26.02.2020 in the morning committed suicide and in consequence of which, a specific case was initiated against the present petitioner under section 498A/306/34 IPC, which is still pending. It is further submitted that the ward is a school going boy and such visitation would affect his studies.

The case record reveals that the Opposite parties did not dispute the status of the petitioner being father of the ward and during last two meetings with the child in presence of the petitioner, I am of the opinion that the petitioner should be allowed to visit his child for the time being, but that should not be at the cost of his education or hampering his study. Thus, I am of the considered view that the petitioner/father shall have the opportunity to visit his son only once in a month.

At this stage, Ld. Advocates of both sides came in consensus that the petitioner and the respondent have no objection if the place of meeting is fixed at Taltala Play Ground, Opposite Makardah Girls' School on the first Sunday of every month and the visiting hours would be from 4 pm to 6 pm.

Hence, it is

ORDERED

that the petition for allowing the petitioner to visit his child, filed by the father/petitioner, is allowed on contest.

The father is allowed to meet with his son on the first Sunday of each month from 4 pm to 6 am at Taltala Play Ground, Opposite Makardah Girls' School, with effect from the month of July, 2024.

Thus, the petition is disposed of.

Fix 30/08/2024 hearing of the Misc. Case.

Dictated & corrected

A.D.J, 1st Court, Howrah
Dated : 28/06/2024

Addl. District Judge, 1st Court,
Howrah.