

Present: Shri Subhankar Sen
District Judge, Nadia

Misc (Act-VIII) Case No.08 of 2018
(R No.05 of 2018)

Order No.40
11.12.2024

Case record is put up today at the instance of the petitioner-father, who has filed an application under section 151 of the CPC, praying for modification of the visitation order.

Copy has been served upon the opposite party-grandmother.

Learned Advocate for the opposite party-grandmother is also present, who has raised objection.

The said petition is taken up for hearing in presence of both the parties.

Having heard the Learned Advocate for the petitioner-father, it appears that initially, he filed an application under section 12 of the Guardians and Ward Act, before this Court, which was rejected by this Court on 19.02.2019 and challenging the said order of rejection, the petitioner-father preferred an application under Article 227 of the Constitution of India before the Hon'ble High Court, Calcutta, being CO No.3605 of 2019, which was allowed by the Hon'ble Court on 04.08.2021 by setting aside the said order dated 19.02.2019 and passing the following direction :

"In such view of the matter, C.O. No.3605 of 2019 is allowed, thereby setting aside Order No.7 dated February 19, 2019 passed by the District Judge at Nadia in Act VIII Case No.8 of 2018 and directing the District Judge to dispose of the prayer for visitation made by the petitioner-father afresh. Such re-hearing and disposal of the said application shall be concluded within one month from the date of communication of this order to the court below. During the pendency of the visitation application, the petitioner-father shall be entitled to visit his minor daughter, at present in the custody of the opposite party-grandmother, every alternative Sunday between 2 p.m. to 4 p.m. Such visitation will take place at the house of the opposite party. However, the opposite party shall not disturb the petitioner and/or the child during the two hours of visitation. In order to obviate future complications by way of allegations and counter allegations, the above-directed visitation shall take place in the presence of the learned advocate appearing for the opposite party in this Court. It will be free to both the parties to address the trial court, without being prejudiced by any of the observations made herein, in the event of subsequent adverse developments during such visitation.

Contd...
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If such approach is made, the court below shall consider the same independently and may revisit the above ad hoc arrangement of visitation, keeping in mind the observations made above."

Thereafter, the petitioner-father again filed an interim application before the Hon'ble Court in connection with the aforesaid CO No.3605 of 2019, which was registered as CAN 1 of 2021, which was disposed of on 01.07.2022 by modifying the earlier order dated 04.08.2021 to the effect that the petitioner-father shall be entitled to visit his minor daughter, at present in the custody of the opposite party-grandmother, every alternate Sundays between 2:00 pm and 4:00 pm at the child friendly room in the Dhubulia PS, District: Nadia.

Thereafter, as per the Order of the Hon'ble High Court, Calcutta, this Court heard the petition under section 12 of the Guardians and Wards Act, afresh and passed an order on 29.04.2023 by directing the opposite party-grandmother to produce the minor child before the Office of the DLSA, Nadia to make access to the petitioner-father on the next date from 3:00 pm to 4:00 pm and also passed an order directing to both the Learned Counsels to suggest the name of two places in alternative of the District Legal Service Authority, Nadia, as suitable to continue the visitation and to increase the frequency of visitation, if needed in future.

Now, it has been the submission of the Learned Advocate for the petitioner-father that the petitioner-father, being the Government PSU Bank employee, has suggested to visit the places, such as, Child Welfare Room of Dhubulia PS, as per the Order of the Learned Court. But, the opposite party-grandmother did not suggest any visiting place from her side. On the contrary, the opposite party-grandmother did not follow the Order of the Learned Court, nor did she appear with the child at the aforesaid place. That apart, the Office of the DLSA, Krishnagar, Nadia, remains closed on the Saturdays. So, it has been prayed that the Court should pass an order allowing for immediate visitation of the said child at any other place, which would be convenient for both the parties to attend and there would be no trauma upon the child.

Keeping in view the facts, it appears that, in fact, there is substance in the submission of the Learned Advocate for the petitioner-father that Dhubulia PS is not a suitable place for the child to be produced, because of the obvious reasons, nor the Office of the DLSA, Krishnagar, Nadia remains open on Saturdays.

Therefore, in order to enable the petitioner-father to visit the child, I think that the child may be directed to be produced by the opposite party-grandmother in this Courtroom.

Thus, 04.01.2025 is fixed for date of next visitation of the said child for one hour and the opposite party-grandmother is directed to produce the said child before this Court on 04.01.2025 from 11:30 a.m. to 12:30 p.m.

Thus, this application, filed today under section 151 of the CPC, is disposed of.

Dictated & Corrected by me

Sd/-
(Subhankar Sen)
District Judge, Nadia
20.07.2024

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(Subhankar Sen)
District Judge, Nadia
20.07.2024