

Act-VIII Case No. 65 of 2023  
CNR No. - WBND010056292023  
R No. 65/23  
JO Code. - WB00657

Order No. 06, dated – 09.09.2024.

Petitioner / father is present by filing hazira.

The O.P / mother files a fresh Power along with a written statement, accompanied by a prayer, seeking to vacate the order of *ex parte* hearing.

Copies served upon the petitioner.

Having heard both sides, the order of *ex parte* hearing is hereby vacated.

Written statement filed by the O.P / mother is accepted.

Date be fixed on **27.11.2024**, for framing of issues.

Ld. Advocate for the petitioner / father has pressed the hearing of the petition dated 03.09.2024, filed at his instance, for visiting his minor daughter on 13.09.2024, i.e. on the 7<sup>th</sup> birthday of his minor daughter.

Said petition is accordingly taken up for hearing, in presence of both the parties.

Perused the petition.

Heard the Ld. Advocate for the petitioner / father, who submits that he has already filed an application U/S 7, 8, 10 & 25 of the Guardian and Wards Act, 1890, seeking the custody of minor Trayathi Hazra, who will be 07 years on 13.09.2024, for which he has prayed for visiting his minor daughter on 13.09.2024, to offer her some birthday presents and spend time with her.

Ld. Advocate for the respondent / mother fairly submits that he is ethically not against this petition, but in the instant case the minor girl has been suffering from acute mental stress for last one year, as she has witnessed the domestic violence upon her mother when she was driven out of her in-law's house along with the said minor child and she is under constant counseling of the child psychiatrist.

In support of his such submission, he has filed photocopy of two medical prescriptions to that extent. Those prescriptions dully support his contention that she has been suffering from mental stress since before 13.12.2023. He further submitted that on and from 14<sup>th</sup> of September, 2024, her half-yearly school examination will start and therefore, if any date is fixed by this court on 13.09.2024, for the purpose of visiting, she may be again subjected to further mental stress anticipating bad impact on her ensuing half-yearly school examination which is not at all encouragable. So, he has prayed that in that event, if any date is fixed for the purpose of such visiting, immediately after the said examination is over, his client has no objection.

Although, Ld. Advocate for the petitioner / father submitted that mental stress was owing to the fact that the said child was forcibly taken out of his house by the respondent / mother for last one year and since thereafter, the said minor child could not see her father.

Contd.....

Contd.....Order No. 06, dated – 09.09.2024.

However, after hearing both the parties on their respective submissions, as aforesaid, and perusing the documents relied upon by the respondent / mother, I am of the view that the petitioner father has a legal right to meet his daughter as an interim right, during the pendency of the application, filed by him U/S 7, 8, 10 & 25 of the Guardian and Wards Act, 1890, and specially in view of her ensuing 7<sup>th</sup> birthday, on 13.09.2024.

At the same time, it cannot be denied also, on the face of the medical documents, that the child is in acute mental stress who allegedly had seen the domestic violence upon her mother by her father and his other inmates and alleged driving out of her paternal house and the in-law's house of her mother. Therefore, while dealing with such application for interim right of the petitioner / father with regard to visiting the minor child, the well-being of the said child should be a paramount consideration to the court. As the child has been suffering from mental trauma and her ensuing half-yearly school examination would commence on and from 14.09.2024, I am of the view that if any order is passed by the court in favour of the petitioner / father, to meet her minor daughter on 13.09.2024, i.e. on her birthday, the said visit may yield some adverse impact on the mental and physical condition, resulting her very poor marks in the examination which will be commenced on and from following date of her birthday. Yet the right of a father, to meet his minor daughter, cannot be curtailed.

Thus, it would be not prudent enough to pass such order in terms of his prayer, but the said prayer of the petitioner / father can be modified to the extent that the respondent / mother will produce the minor child before this court positively **on 23.09.2024, in the court room at about 12.30 P.M for the purpose of allowing her daughter to visit her father.**

The petitioner / father, on that date, may offer the gifts, which he had prayed to be presented on her birthday i.e. on 13.09.2024.

Hence, the instant petition filed by the petitioner / father on 03.09.2024, is hereby disposed of by observing, as aforesaid.

To date (27.11.2024) for framing of issues.

Dictated & Corrected  
Sd/- Subhankar Sen  
District Judge  
Nadia at Krishnanagar  
09.09.2024

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District Judge  
Nadia at Krishnanagar  
09.09.2024