

In the Court of Ld. Addl. District Judge, 3rd Court, Alipore
Present : Kumkum Chattopadhyay, (WB00742)
Additional District Judge, 3rd Court, at Alipore

Act VIII 41 of 2020

Order No. 55 dated 20.01.2025

Today is fixed for hearing petition u/s. 151 C.P.C.

Both parties file haziras.

Respondent filed written objection against the application u/s 151 of CPC dated 21.12.2024.

Heard learned Advocates for both sides. Perused the case record and the application filed U/S. 151 of C.P.C., by the petitioner and written objection filed by respondent. Considered.

Ld. Advocate for the petitioner has submitted that the father of the petitioner namely Prabal Ray died on February 2024 and death anniversary is fixed on 26.01.2025 so a direction is required to produce the child on the said date for performing puja and other rituals of death anniversary of Prabal Ray. It is further submitted by him that on that auspicious day the presence of Tanush Ray minor son of the petitioner is very much necessary since it was the last desire of Prabal Ray that his grandson would perform rituals of Shradh ceremony.

Ld. Advocate for the respondent has filed written objection. Ld. Advocate for the respondent has submitted that presently the respondent is suffering from chicken pox and has been asked by the Doctor to isolate herself as such, she cannot accompany the minor on the rituals of death ceremony of Prabal Ray. He has further submitted that the minor child has strained relationship with his father and family members due to physical and mental torture inflicted upon him by them. The minor child does not want to meet with her father since he is not enjoying the company of his father. Hence, it is difficult for the respondent to allow the minor son to go in the house of the petitioner/father.

This is an application u/s. 25 of Guardian and Wards Act filed by the petitioner/father.

On perusal of the case record, it appears that prayer for meeting the ward with his petitioner/father is allowed by the Court. He is allowed to meet his minor child physically on every alternative Sunday from 11.00 a.m. to 1.00 p.m. and every Sunday and Saturday from 7.00 p.m. to 8.00 p.m. through video conference. It also appears from the case record that the parents of the petitioner are also allowed to meet minor child through video conference. However, now the father of the petitioner who was the grandfather of the minor child expired. This petition has been filed praying for allowing to meet with the minor child on 26.01.2025 for the purpose of offering holy water at the time of death ceremony of his grandfather since deceased.

One document has been filed by the respondent/wife showing that she is suffering from chicken pox and doctor has advised her to take rest for six weeks. Ld. Advocate for the respondent has submitted it is not possible for the respondent to go outside and accompany the child at the house of petitioner/father.

In Hindu customs holy water is offered to the deceased as a sign of respect and to honour the ancestors. In my view, the presence of grandchildren is also required since he is also a member of that family and it is required for the welfare of the child also.

As per the submission of the Ld. Advocate for the respondent that she is suffering from chicken pox which is highly contagious in nature. However, if the petitioner father is ready to take the risk to bring the child from the house of the respondent, it will not be hardship to the respondent/mother.

Considering all these, I am inclined to allow the petition. The petition filed by the petitioner is allowed on contest.

Hence, it is,

ORDERED

that the petition u/s. 151 CPC dated 21.12.2024 is hereby allowed on contest.

The petitioner father is permitted to take child from the house of the respondent mother to the Shradh venue of his father on 26.01.2025 at 10.00 a.m. for performing puja and other rituals for the death ceremony of his grandfather.

The petitioner father is further directed to return the child on 26.01.2025 by 12.00 a.m. to the house of the respondent.

The entire formalities will be completed in presence of Ld. Advocates for both sides.

Thus the petition u/s. 151 CPC dt.21.12.2024 is disposed of.

To 21.03.2025 for hearing petition u/s.151 CPC dated 21.12.2024. Objection if any, in the meantime.

D/Corrected by me.

Additional District Judge

Additional District Judge
3rd Court, Alipore