

Act VIII Case No.41 of 2020

Present : Sri Prashant Chowdhary, Addl. Dist. Judge, 9th Court, South 24-Pgs, Alipore.

Order No.31 dated 07.09.2022

Petitioner is present by filing hajira.

O.P is present by filing hajira.

Ld. Advocates of both sides are present.

The application dated 02.09.2022 U/s.151 of CPC filed by the petitioner is taken up for hearing and passing order.

Ld. Advocate for the petitioner submitted that the petitioner and his parents are very much desirous to have the company with the minor in ensuing grand parents day which is on 11.09.2022 as well as in Durga Puja and Bhaiphota. The petitioner stated that he is interested to accompany the minor in pandal hopping during five days of Durga Puja with his parents. He submitted that the petitioner wants to have the company of the minor in Bhaiphota on 27.10.2022 so that the minor gets Bhaiphoto from his cousin sister, Rishani Dey, who is aged about three years and is niece of the petitioner. Under the circumstances he prayed for to allow the petitioner and his parents to spend time on 11.09.2022 with the minor for celebrating grand parents day and allow the petitioner and his parents to spend time on 01.10.2022, 02.10.22, 03.10.2022, 04.10.2022 and 05.10.2022 for celebrating Durga Puja and allow the petitioner and his parents and his niece to spend time on 27.10.2022 at the residence of the petitioner for Bhaipota.

Ld. Advocate for the O.P submitted that he has objection regarding the visit of the grand parents of the minor on grand parents day as it is not a custom in the Bengali society. He submitted that the minor cousin sister may be allowed to visit and meet with the minor child on 30.10.2022 instead of 27.10.2022 at the petitioner's residence on the occasion of Bhaiphota. He objected to the prayer of the petitioner and prayed for rejecting the petition of the petitioner.

Heard both sides. Perused. Considered.

Order No.23 dated 18.02.2022 reveals that the petitioner/father was allowed to meet with the minor son on every alternative Sundays from 11 am to 1 p.m at the residence of the respondent and the grand parents were allowed to meet the minor child through video conferencing only on every Saturdays from 7 pm to 8 pm along with the petitioner.

Apparently, the minor Tanunsh Roy was born on 15.05.2017 and appears to be aged about 5 years. Admittedly due to matrimonial dispute in between the petitioner and the respondent both the parties are living separately and the respondent is having the care and custody of the minor. An order of physical visitation has been passed by this court in favour of the petitioner and an order of visitation through video conferencing has been passed in favour of the grand parents of the minor. The grand parents have been allowed to meet with the minor through video conferencing on every Saturdays from 7 p.m to 8

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p.m along with the petitioner. The minor is aged only about 5 years and there remains enormous amount of rush in the pandals during the Durga Puja. The respondent has in the alternative prayed for allowing the cousin sister of the minor to meet with the minor on 30.10.2022 for the occasion of Bhaiphota. The prayer of the petitioner to take the minor for pandal hopping without the presence of the respondent cannot be considered keeping in mind the age of the minor child and under the facts and circumstances of the present case and the objection raised by the respondent in this regard,

Under the above discussion, the prayer of the petitioner for allowing the grand parents to meet with the minor physically on grand parents day and allowing the petitioner to pandal hopping along with the minor on the Durga Puja occasion is not allowed. However, this court is of the considered opinion that the prayer of the petitioner be allowed in the alternative form for the interest of justice. Accordingly, the prayer of the petitioner is allowed to the extent and from herein below mentioned :-

a) The grand parents of the minor are allowed to meet and interact with the minor only through video conferencing on the occasion of grand parents day ie on 11.09.2022 from 7 pm to 8 p.m.

b) The petitioner is allowed to meet with the child physically on 03.10.2022 on the occasion of Durga Puja at the house of the respondent from 11 am to 1 p.m.

c) The petitioner is allowed to bring his niece, Rishani Dey for the purpose of visitation with the minor to the house of the respondent on 30.10.2022 for the purpose of Bhaiphota.

Both the parties are directed to co-operate with each other for the effective compliance of the order.

Under the above discussion the application dated 02.09.2022 U/s.151 CPC filed by the petitioner is hereby disposed of.

To date

The application U/s.151 CPC is hereby disposed of.

D/C by me

Sd/- Prashant Chowdhary
(ADJ)

Sd/- Prashant Chowdhary
Addl. District Judge,
9th Court, South 24-Parganas, Alipore