

In the Court of District Judge, South 24-Parganas

Act VIII Case No. 74 of 2024 (R-74)

Present : Sri Abhijit Som, (WB01127 District Judge

South 24 Parganas at Alipore

Shankar Mondal

... Petitioner

Vs.

Champa Mondal

... Opposite Party

Order No. 02, dated 12.04.2024

The record is put up on prayer.

An application for granting interim custody of the minor is filed by the petitioner/father.

Apart from praying for temporary custody, the petitioner has also prayed for an order of visit of the minor, Nila Rani Mondal, during pendency of the proceedings.

The petitioner and the opposite party are a married couple. Due to the said wedlock, a minor girl was born on 28th March, 2016. It is found from the application that the opposite party/mother left the petitioner since June, 2017. The minor is in the custody of the opposite party. It is further stated that the petitioner was not allowed to meet with his daughter since June, 2017. It is also found that a suit under section 9 of the Hindu Marriage Act is filed by the petitioner against the opposite party for restitution of conjugal rights.

It is, however, astonishing that the petitioner did not make any application to see the minor during the pendency of the Matrimonial Suit or by filing any case under the Guardians and Wards Act before filing the instant application after almost of seven years from the date when the

minor was removed from the custody of the petitioner. So, it may be presumed that the minor is in the custody of her opposite party/mother since her birth and the minor is a girl child. So, at this stage, the custody of the minor need not be disturbed. Moreover, the minor was removed from the custody of the father, if the allegation of the petitioner is taken uncontroverted, at the age of one year. So, at this stage, it is not desirable that the minor will talk with the petitioner/father freely without any co-operation from the side of the opposite party/mother. So, any interim order of visitation without hearing the opposite party will be counter-productive and detrimental to the mental health of the minor.

In view of the above and also having found no urgency, this Court is not inclined to pass any interim order without hearing the opposite party.

The prayer for interim order is refused at this stage.

To date **(10.07.2024)**.

Dictated & corrected by me,

Sd/-Sri Abhijit Som

District Judge

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District Judge