

D/L.14.
June 18, 2025.
MNS.

FMAT No. 166 of 2025

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CAN 1 of 2025

Anup Bera
Vs.
Smt. Supriya Bera

Md. Ashraf Ali

... for the appellant.

1. Despite service, none appears for the respondent. Hence, the application is taken up for *ex parte* hearing.
2. The appeal arises out of a refusal of the appellant/father's prayer for guardianship and custody of his minor son of eleven years, who is residing with his mother at present.
3. We find from the application, which is uncontroverted since the respondent chooses not to appear, an allegation regarding the illicit relationship of the mother find place therein.
4. Even without going into the veracity of such allegation, we do not find it proper to direct the appellant, particularly in view of the strained relationship between the parties (although there is no matrimonial suit pending between them) to visit the respondent's house for the purpose of visiting his child.

5. At the previous hearing, we had requested the learned Advocate for the appellant to take instructions as to a place conducive for the well-being of the child for the purpose of visitation.

6. Upon such instructions being obtained, learned counsel for the appellant submits that there is a children's park at Gholai, Ballichak, Police Station- Debra, District- Paschim Medinipur, which is the nearest such place from the house of the respondent-mother, where the child resides.

7. On query of court, learned counsel for the appellant submits that the distance between the said place and the house of the respondent is about twelve kilometres.

8. In the absence of any alternative suggestion, since the respondent is desisting from appearing before us, we direct the respondent to produce the minor son of the parties, namely, Swarnadeep Bera, who is aged about eleven years, on every Sunday between 5 and 6 p.m. at the aforesaid children's park for the purpose of visitation by the appellant-father.

9. The costs of the to and fro journey between the residence of the respondent and the place of visitation, for both the respondent-mother and the child, shall be borne by the appellant. Such costs on each of the occasions of visitation shall be paid by the appellant to the respondent at the time of visitation itself.

10. The first of such visitations shall take place on June 22, 2025 and thereafter on every successive Sunday, until further orders.

11. During the period of visitation, the respondent-wife shall remain at a distance and permit free mixing between the appellant and the son without any interference on the part of the respondent.

12. CAN 1 of 2025 stands disposed of accordingly without any order as to costs.

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13. The appellant shall put in postal costs and due requisites, for service of notice of the appeal on the respondent, within a week from date.

14. The trial court records shall be brought by special messenger at the cost of the appellant, also to be deposited within a week.

15. The appellant shall prepare and file the requisite number of informal paper books without comparing with the records within six weeks from the date of service of notice of arrival of the trial court records on the learned Advocate for the appellant.

16. Liberty to the parties to mention the appeal for inclusion in the list for hearing as and when the same is made ready for hearing.

(Uday Kumar, J.)

(Sabyasachi Bhattacharyya, J.)