

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).12932/2008

(From the judgement and order dated 30/04/2008 in FMA No. 1013/2007 of The HIGH COURT OF CALCUTTA)

NANDINI CHOWDHURI

Petitioner(s)

VERSUS

RANA ROY

Respondent(s)

(With prayer for interim relief)

Date: 04/06/2008 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE C.K. THAKKER
HON'BLE MR. JUSTICE LOKESHWAR SINGH PANTA
(VACATION BENCH)

For Petitioner(s) Mr.Abhijeet Chatterjee, Adv.
Mr. Subodh Kr. Pathak, Adv.
Mr.Shashi Ranjan, Adv.
Mr. Dharmendra Kumar Sinha,Adv.

For Respondent(s) Mr. Raju Ramachandran, Sr.Adv.
Mr. Sridhar Y. Chitale, Adv.
Mr. Abhijat P. Medh,Adv.

UPON hearing counsel the Court made the following
ORDER

We have heard learned counsel for the parties.

We have also met Nalanda who is said to be about seven years of age.

We are, however, not stating anything at this stage in view of the fact that the
learned counsel for the respondent (father) does not

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insist for custody at this stage. We also met petitioner, Nandini Chowdhuri,
mother of Nalanda. She stated that if the father, who is also having his residence
in Calcutta comes to India and stays at Calcutta, she has no objection if Nalanda
meets her father but so far as sending Nalanda to United States of America is
concerned, she has objected.

In our opinion, in such cases paramount consideration is the welfare
of the child. If the child is of the age of understanding, his/her wishes also have
to be ascertained. In view of the fact, that the matter has come to this Court
under Article 136 of the Constitution of India at an interlocutory stage on an
order on application under Order 39 Rules 1 and 2 of the Code of Civil

Procedure and the High Court has directed the Trial Judge to dispose of the proceedings within the month of July, 2008, we are not entering into merits of the matter but allows the petitioner-mother to keep custody of minor Nalanda (daughter) with her.

Learned counsel for the father, however, stated that the father may be allowed to talk to his daughter on telephone and may be permitted to contact her through

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webcam for some time between 11.00 a.m. to 1.00 p.m. (Indian Standard Time).

In our opinion, the prayer is reasonable. We may also state that the learned counsel for the mother fairly stated that his client (mother) does not object to the said arrangement.

As and when the father comes to India, in view of the fact that the mother has not objected to his meeting with Nalanda. such meeting can be scheduled so that the father may meet his daughter Nalanda. If there is any difficulty, it can be worked out. We grant liberty to the father to approach the trial court where the proceedings are pending.

The special leave petition is disposed of.

[Usha Bhardwaj]
Court Master

[Vinod Kulvi]
Court Master

Note: Copy of the order be given dasti.