

Misc. Case 189 of 2017

um.....Petitioner

Vs

Mr

ers..... Opposite party

Order dated

20.11.2018



Today is fixed for hearing of petition filed under section 21 of PWDV Act positively, W/o, if any, in the meantime.

Both parties are present through their concerned Ld. Advocates.

The Ld. Advocate on behalf of the husband/ petitioner submitted in the same as per his contention made in the application filed by him under section 21 of the PWDV Act.

The Ld. Advocate on behalf of the husband/petitioner contended that from the wedlock of the aggrieved party and respondent of the main application one son, namely, n and a daughter namely, N. am were born. As per his contention due to some dispute, both the aggrieved party and the respondent started to reside separately which followed by several litigations between the parties. The children admittedly are staying along with their mother and due to the acrimonious relationship between the parties their relation got strained and the respondent could not get any access to meet his children or to have a talk with them. Thus, finding no other alternative the husband/petitioner came up with the present application under section 21 of PWDV Act praying for making necessary arrangement for the visitation of the respondent No.1 / father to meet his minor daughter namely, P um and minor son namely, Ir m.

The Ld. Advocate on behalf of the Respondent No.1/ father relied on the following decisions in support of his contention:

1. Mrs. Payal Sudeep Laad @ Payal Sharma versus Sudeep Govind Laad in connection with Criminal Application No. 186 of 2018
2. Sudeep Kumar Thakur versus Madhubala in connection with Cr. MMO No. 206/2016
3. Manoj Anslem Rebeiro versus Candace Elizabeth Rebeiro in connection with Civil Appeal No. 4983 of 2016

Ld. Advocate on behalf of the complainant has not filed any W.O. and the Ld. Counsel verbally submits before the Court that the application is filed at a delayed stage only to harass the aggrieved party with ulterior motive. It is further contended by the concerned Ld. Advocate that the father/petitioner never discharged any kind of his liability towards the said children. The Ld. Advocate on behalf of the aggrieved party/wife further submitted that the right under section 21 of PWDV Act is not unbridled right as there is a proviso appertaining to Section 21 which provides that "... if the Magistrate is of the opinion that any visit of the respondent may be harmful to the interests of the child or children, the Magistrate shall refuse to allow such visit."

Thus, the Ld. Counsel for the aggrieved party has prayed for rejecting the prayer of the husband/ petitioner.

Heard the Ld. Advocates at length. Perused the available materials on record. Considered.



Scientifically, it has been proven that children whose father's have active involvement in their growing up years have fewer behavioural problems and turn out better individuals socially and academically. Parenting is a team effort. There is an old African proverb that says 'it takes a village to raise a child'. While a child is influenced and shaped by the entire society, there are no two individuals who play a more pivotal role in this than the parents. A father's role is not just limited to being a "breadwinner" for the family. Father's involvement influences the child's overall development including the intellectual development, gender-role development, and psychological development. As children grow up, fathers assume the role of a friend, guide and mentor. While mothers provide emotional stability, fathers provide security and certainty in their children's life. Countless studies show the importance of the father's role in their children's life. So, fathers should involve themselves to help their children to keep on the right path. He is very important mentor for children.

Considering the role of the father in child's development and over all welfare, I am of the opinion that in the present case the Respondent No.1/father/ present petitioner should be allowed to visit his children for their betterment. The respondent No.1 is hereby given recollection that right implies responsibilities and the Court believes that allowing such application is not an instrument for exerting statutory right but he should be well aware of his responsibilities as a father too. Co-operation from the aggrieved party is expected for the betterment of the children in the long run.

Thus, the application filed by the respondent No.1/ father stands allowed on contest but without any order as to cost.

Considering the fact that the children will be school going the right of visitation is fixed on holiday and considering the fact that the atmosphere of the court may not be congenial to the children the place of visitation is fixed as per the following terms.

Respondent No.1 is hereby allowed to visit his children on Saturday/ Sunday at 4.30 p.m. to 6.30 p.m. as per the convenience of the parties mutually agreed between the parties beforehand.

In case the parties failed to arrive at a mutual day of visitation, then Saturday /Sunday every alternative week at the same time.

Parties are at liberty to fix their place of meet, if they failed to do so, then respondent No.1 is at liberty to meet his children at the residence of the petitioner.

Respondent No.1 is directed to not to do anything which may cause an injury to the children.

Considering the demand of the situation, Ld. Advocate Mr. Sambit Chatterjee is hereby appointed from the Court to be present on first four visits of the respondent No.1 with his children.

Respondent No.1 is hereby directed to pay a cost of Rs. 1,500/- to the Ld. Counsel along with necessary expenditures of journey for every visit. Ld. Counsel is directed to issue proper receipt there upon. Respondent No.1 is further directed to communicate the day and time of each meeting to the concerned Ld. Advocate beforehand.

Ld. Advocate concerned is directed to report this court atonce if any untoward event takes place during any visit. If Ld. Advocate could not make himself available on any date, then he is directed to inform the Court. Inform all concerned.

Inform the concerned P.S. atonce to co-operate the concerned Ld. Advocate, if situation so demands.

Let a free copy of the order be supplied to both the parties.

To.....18.12.18..... for hearing the petition under section 340 of Cr.P.C. and hearing of interim petition.

Dictated & corrected by me

Sd/M. Roy
Judicial Magistrate 2nd Court
Bolpur, Birbhum
Judicial Magistrate 1st Class
2nd Court, Bolpur, Birbhum

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