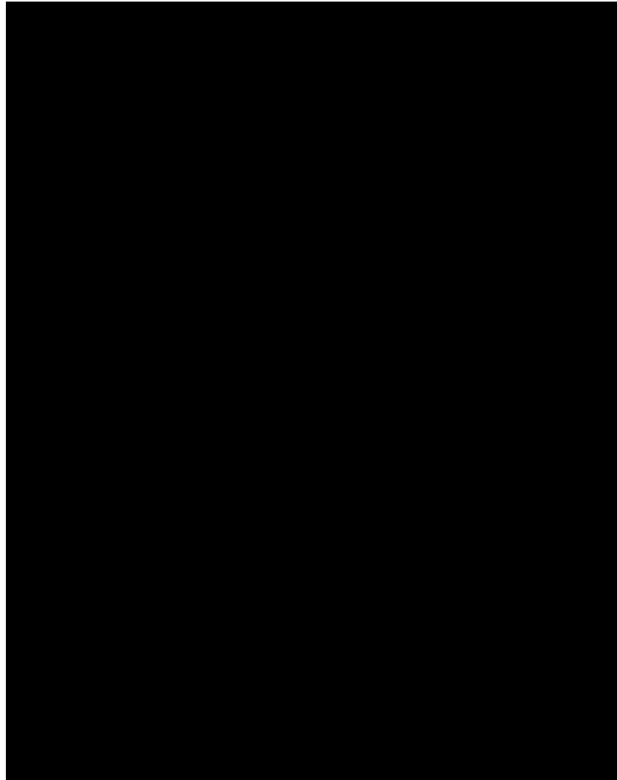


D/L. 4 & 5.  
January 7, 2025.  
MNS.



... for the appellant-father.



...for the respondent-mother.

Ms. Juin Dutta Chakraborty

...learned Special Officer.

1. Heard learned counsel for the parties.
2. The learned Special Officer, who is also given a hearing, states that when she went to the residence of the appellant-father on December 26, 2024 in compliance with the order of this Court, initially the minor child was not brought there by the mother, that is, the respondent in terms of the directions passed by this Court.
3. Upon the learned Special Officer's query over the phone to the respondent-mother as to the reason for her absence with the child, the respondent feigned ignorance of

the true purport of the order dated December 10, 2024 and sought to show the order to the learned Special Officer under the pretext that there were some doubts regarding interpretation of the same.

4. Subsequently, the child was brought to the vicinity of the residence of the appellant-father. From there, the respondent-mother requested the learned Special Officer to come and take the child.

5. It is further submitted by the learned Special Officer that at the time of handing over the child, the child was not exactly willing to go to the father. However, it transpires from her submissions that the respondent-mother had a huge role to play in such conduct by the child. Moreover, the respondent-mother had created a scene at the locale by involving neighbours and seeking to implicate the learned Special Officer, giving an impression to the neighbourhood people that it was the learned Special Officer, by dint of the order of the court, who was trying to take away the child from the mother and hand her over to the appellant-father.

6. On December 27, 2024, the next date of visitation as per the order dated December 10, 2024, a similar scene was again created by the respondent-mother.

7. Learned counsel for the respondent-mother vehemently submits that the mother is willing to go back to the appellant-father as well as to hand over the child to the father.

8. It is submitted that there were some difficulty in understanding the order dated December 10, 2024 on the part of the respondent-mother.

9. However, on the query of court, learned counsel for the respondent-mother submits that there was no such difficulty on the part of the learned Advocate in understanding the purport of the order. The learned Advocate for the respondent-mother also seeks to use an affidavit to bring on record the true purport of the events which took place on the relevant dates.

10. Learned counsel for the appellant-father submits that similar recalcitrance was shown by the mother on previous occasions and points out to an order dated September 6, 2024 passed by a co-ordinate Bench where similar orders were passed, changing the venue of visitation from the residence of the mother to that of the father, fixing visitation hours between 7 and 8 p.m. on Saturdays, that is, on September 14, September 21 and September 28, 2024 and between 5 to 8 P.m. on Sundays, that is, September 15, September 22, and September 29, 2024.

11. On the said occasions also, as it transpires upon hearing learned counsel for the appellant-father and the learned Special Officer, the mother was consistently present during the visitation hours and had, by signs and surreptitious gestures, instigated the child not to go to her father.

12. Although the respondent-mother seeks to feign ignorance regarding the interpretation of the order dated December 10, 2024, we find nothing in the said order which requires further clarification or interpretation.

13. Moreover, it is evident from the conduct of the respondent-mother that she has been consistently attempting to defy the orders of the Court in respect of visitation, be it the order of the Trial Court or the orders of this Court dated September 6, 2024 as well as December 10, 2024.

14. Thus, we are of the *prima facie* opinion that if the whims of the respondent-mother are permitted to be given a premium by the Court by not taking any stringent action against the mother, the same conduct would be repeated over and over again and the respondent would continue to frustrate the orders of the Court.

15. Even on a more fundamental consideration, the welfare of a child of tender years can only be sub-served if she has a balanced interaction with both parents and not a lop-sided and exclusive exposure only to one of the parents, who is in litigation with the other parent.

16. Hence, since the paramount consideration in custody matters is the welfare of the child, we find no reason as to why the custody of the child should not be given to the father at least for a limited period to ensure that the respondent-mother does not come in the way of such interaction between the father and the daughter.

17. Further, the respondent-mother cannot be permitted to use the innocent child as a handle to force the appellant-father to resume conjugal life with her despite the pendency of a separate divorce suit against her at the instance of the appellant.

18. However, since the respondent seeks some further time and opportunity to give a clarification as to the incidents which took place on the relevant dates, we give a last chance to the respondent-mother to explain her position in writing by way of a short affidavit.

19. Such affidavit shall be filed by the respondent on January 13, 2025, with an advance copy to the learned Special Officer as well as to the learned Advocate for the appellant-father.

20. However, in order to prove her *bona fides*, the respondent-mother shall, every evening from tomorrow onwards till the coming Sunday, that is, January 12, 2025, take the minor child to the residence of the father for an exclusive interaction between the appellant-father and the child for two hours on each day between 6 p.m. and 8 p.m.

21. The respondent-mother shall take the child to the residence of the appellant-father on each such occasion and hand over the child to the father. It is made clear that the mother shall go unaccompanied by any other person and shall leave the child alone with the appellant-father when she reaches the residence of the appellant-father.

22. Immediately upon handing over the child to the appellant-father, the respondent-mother shall leave the

place for two hours and should not be seen in the vicinity of the residence of the appellant-father for the next two hours till 8 p.m. on each such occasion, after the expiry of which period she will return to the residence of the father and the father will then, without any demur, return the child to the mother.

23. Both the matters shall next be listed under the same heading on January 13, 2025 for passing further orders.

(Sabyasachi Bhattacharyya, J.)

(Subhendu Samanta, J.)