

Anjali Hazari

Vs

Ravindra Kishen Hazari

I.A. No. 1 of 1991 in Transfer Petition No. 327 of 1990

(S. Ranganathan, S. C. Agarwal, N. D. Ojha JJ)

19.02.1991

ORDER

1. I.A. No. 1 of 1991 is an application for clarification or modification of the orders of this Court dated September 5, 1990 and October 12, 1990 in the earlier IA's filed in Transfer Petition (Civil) No. 327 of 1990.

2. On the earlier occasions both the parties had agreed to file a petition for divorce by mutual consent in the District Court, Alipore, Calcutta. Time for this purpose was given initially till October 30, 1990 and then till November 30, 1990. No petition has so far been filed as there were some differences of opinion between the parties regarding the terms and conditions as to the respondent's access to the child of the marriage, Ragini. After some discussion before us both the parties have filed before us a memo of agreement regarding the above matter. It has been agreed that the petition for divorce by mutual consent will be filed on or before March 31, 1991 in the District Court, Alipore, Calcutta. The terms of access of the respondent to the child until she reaches the age of six years have also been agreed upon between the parties and have been set out in paragraphs 2 to 6 of the memorandum filed before us duly signed by the petitioner, the respondents and their counsel. These terms read as hereunder :

"2. The custody of the girl child will remain with the mother;

3. The respondent shall have access to the child Ragini during daytime from 9 a.m. to 9 p.m. during the first fortnight of the summer vacations of her school in Calcutta.

The petitioner will take the child to Bombay for this purpose but the costs of travel of the petitioner and the child shall be borne by the respondent;

4. The respondent shall also have access during the days from 9 a.m. to 9 p.m. to the child during the first fortnight of the Puja vacation of the school. For this purpose the petitioner will bring the child to Delhi;

5. After the child attains the age of six years the manner and quantum of allowing access and custody of the child will be reviewed;

6. The respondent shall be allowed to see the child by prior appointment as and when he visits Calcutta."

3. In view of this agreement between the parties, we direct that the petition for divorce may be filed

on or before March 31, 1991 and that access to the child will be regulated on the above terms and conditions. The question regarding the custody or access to the child after she attains the age of six years will be considered later in appropriate proceedings, if any and of occasion arises.

4. We may also mention that both the parties and counsel have stated before us that they will not claim any maintenance from each other consequent upon the divorce.

5. They will not claim any rights to any property of the other but may seek the return of one's own property which may be with the other.

6. They also agree that as soon as the suit for divorce by mutual consent is filed and registered, the suits for restitution of conjugal rights and for judicial separation filed by the parties and at present pending in courts at Bombay and Calcutta will be withdrawn.

7. The application is disposed of accordingly.

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