

2022 LiveLaw (SC) 21

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 151 OF 2022 (@ SLP (C) No(s). 19259/2021; 05-01-2022

ARJAB JENA@ ARJAB KUMAR JENA *VERSUS* UTSA JENA @ PATTNAIK

Mediation - Taking on record the comments made during the course of mediation or settlement proceedings impedes conciliation and impinges on the principle of confidentiality. (Para 3)

(Arising out of impugned final judgment and order dated 20-04-2021 in WP(C) No. 29015/2020 passed by the High Court of Orissa at Cuttack)

For Petitioner(s) Mr. Jay Savla, Sr. Adv Ms. Renuka Sahu, AOR; For Respondent(s) Mr. Rajshekhar Rao, Sr. Adv. Ms. Bhabna Das, AOR Mr. Arunav Patnaik, Adv. Ms. Aanchal Tikmani, Adv.

ORDER

Leave granted.

We have heard the learned counsel for the parties.

We disapprove the observations made in the impugned order which refer to the comments made during the course of the mediation or settlement proceedings. The High Court should not have taken the aforesaid comments on record, as the same would impede conciliation and is contrary to and impinges on the principle of confidentiality. Accordingly, the paragraphs 11 and 12 of the impugned order would be erased from record.

We have also examined the counter-affidavit and the rejoinder affidavit filed and placed on record. As the matter has been remitted to the Family Court, we would request the Family Court to decide the application for joint custody, visitation right etc. in accordance with the law within a period of four months from today. However, for the present, we are inclined to direct that the appellant would be permitted to interact with the child in the presence of the counselor attached to the Family Court, Bhubneshwar, Orissa. The first such meeting would take place on 21.01.2022 at 03.00 PM. The counselor would fix date and time of subsequent meetings as per her/his discretion, keeping in view the request made by the parties. The counselor would be at liberty to submit his/her report before the Family Court in sealed cover. It would be open to the Family Court to decide whether the report, if submitted, should be made available to parties. It will be open to the Family Court to pass interim order/direction as are considered necessary and appropriate.

Recording the aforesaid, the appeal is disposed of.

We clarify that the observations and the directions given in this order and the impugned order would not be construed as findings recorded or expression of opinion on the merits of the facts and contentions of the parties.

Pending application(s), if any, stand disposed of.