

**(1929) 12 AHC CK 0028**

**Allahabad High Court**

**Case No:** None

Munawwar Khan

APPELLANT

Vs

Tasalli Khan

RESPONDENT

---

**Date of Decision:** Dec. 11, 1929

**Citation:** AIR 1930 All 255(1)

**Final Decision:** Dismissed

---

### **Judgement**

1. This is an appeal by a gentleman who was appointed guardian to two minors, Jhabbu Khan and Zaibunnissa, and who has been now dismissed from his office of guardianship, except in so far as the guardianship of the person of Zaibunnissa is concerned.

2. It appears, by an order passed sometime in 1923 Munawwar Khan was appointed the guardian of the persons and property of Jhabbu Khan and Zaibunnissa, who are brother and sister. Zaibunnissa, although then a child of 6 had already been married to Munawwar Khan's son. In 1918 one Tasalli Khan the respondent to this appeal, put in an application before the learned District Judge of Basti for the removal of Munawwar Khan from the guardianship of the minors. The charge that he brought against Munawwar Khan was mainly that he mismanaged the minor's property. The learned District Judge called for an account and had the same checked by a commissioner. It was found that a sum of Rs. 83-13-0 was payable by Munawwar Khan. Munawwar Khan had paid himself a sum of Rs. 280 on account of the maintenance charges of Zaibunnissa. This amount he took, for the period of four years. The learned District Judge was of opinion that, as the father-in law of Mt. Zaibunnissa, Munawwar Khan was responsible for her maintenance and, therefore, he was not entitled to pay himself the sum of Rs. 280. The learned Judge removed Munawwar Khan from the guardianship of the person and property of Jhabbu Khan and from the guardianship of the property of Zaibunnissa. He ordered Munawwar Khan to pay back a sum of Rs. 320-14-6 to Tasalli Khan, who was appointed guardian of the property in place of Munawwar Khan.

3. Munawwar Khan's contention in appeal is that he should not have been called upon to refund the sum of Rs. 280 that he was entitled to a proper amount of money for the support of Zaibunnissa whose guardian he still was, and that the share of the property of Zaibunnissa should have been handed over to him for management.

4. Taking the last point first, it is abundantly clear from the judgment of the learned District Judge that the property should be left in the hands of Tasalli Khan. The property is not large, and the appointment of two guardians for the management of a small property would only lead to waste. This part of the appeal, therefore, must fail.

5. Coming to the question of maintenance, past and future, it appears that the guardian appointed by the Court should be put in a position to maintain the minor. We do not propose to decide whether a Mahomed an father in-law is bound to maintain, out of his own property, his daughter-in-law. We think it to be sufficiently clear that the Court, when it appoints a person as the guardian of a minor, should put the person appointed guardian in a position to support the minor. On this broad principle, the order of the learned District Judge is not capable of being maintained.

6. In the result, we modify the order of the Court below by directing that the sum of Rs. 280 taken by Munawwar Khan for the maintenance of the minor need not be refunded to him. We also direct Tasalli Khan, the respondent, to pay Munawwar Khan, in two instalments Rs. 70 per annum for the maintenance of the minor Zaibunnissa, Rs. 35 to be paid on 1st November and Rs. 35 on 15th April of each year. We may point out that Rs. 70 per annum is less than the income of Zaibunnissa from her property, and that after payment of this sum a small amount will be left in the hand of Tasalli Khan to meet the expenses of collection and other necessary expenses. Having regard to the circumstances of the case we direct that the parties shall pay their own costs in this appeal. We leave the order as to costs passed by the Court below undisturbed.