

Sreemati Kiransasi Ghose Vs Panchanan Ghose

Court: Calcutta High Court

Date of Decision: Jan. 17, 1930

Judgement

1. This appeal has arisen out of an order passed by the District Judge of 24-Parganas removing the Appellant from her position of guardianship of

her minor son Dharendra Krishna Ghosh. It appears that the Appellant was appointed guardian on an application made by her some time in the

year 1926. Thereafter, certain proceedings were taken against her upon the ground that she was not properly managing the property of the minor

and was not submitting accounts of her management in respect thereof. From time to time she made applications before the Court which clearly

made out that she personally knew nothing about the management and was completely in the hands of certain other persons whom she charged

with having mismanaged the minor's estate. Ultimately proceedings were taken against her under the Guardians and Wards Act and on her

showing cause an order was passed by the District Judge on the 27th July 1928 which runs in these words-- "Cause shown. The guardian admits

that she has been doing no-thing towards the management of the minor's estate and that she knows nothing about the accounts. She admits that

she has been signing blank papers and making them over to the minor to be filed in Court by a person whom she now accuses of defrauding the

minor. The accounts filed remain unintelligible and have not been explained. On two occasions warrant for realisation the fine imposed on the

guardian remained unexecuted. Obviously she not fit to be guardian of the proper She now says that she proposes to an application for the

appointment a common manager under sec. 93 of the Tenancy Act. I am unaware whether the facts would justify such an appointment but if they

possibly be the best course to pursue. I give one month's time for the purpose. If nothing is done by 21 August 1928 the guardian will be moved.

Thereafter on the 27th of August 1928 the Appellant filed a petition for the appointment of a common manager but this application appears to have

been resisted on behalf of the Respondent with the result that attempt to get a common manager appointed proved abortive. Ultimately the 17th

January 1929 the learned District Judge made an order the Appellant from guardianship and that is the order from which the present appeal has

been taken. Upon the facts which have been re-cited above it is abundantly clear that whatever other steps may be taken for the appointment of a

guardian in respect of the minor's property the Appellant certainly is not a proper person to be appointed as such. On her own showing she

appears to have been completely ignorant of the affairs of the estate and unable to protect the minor's property from being misappropriated by

others and is dependent entirely upon others for the management of the minor's estate. In such circumstance it is difficult to see how the preses

(sic) peal on her behalf in so far as it seeks to set aside the order of her removal from guardianship and to have herself re-instated as guardian can

possibly succeed. The appeal must necessarily be dismissed. At the same time in view of the allegation she has made as against the Respondent in

this appeal and the hopeless state in which the minor's property is at the present moment it is exceedingly desirable that somebody should be

appointed guardian in respect of that property without any further delay. The learned District Judge, in our opinion, was not right in leaving the

matter simply by removing the Appellant from guardianship but ought to have directed his attention towards the minor's estate and to have made

some provision for its adequate protection.

2. We have enquired of the parties before us as to what should be the proper mode to proceed in order to safeguard the minor's interests seeing

that the application that had been made for the appointment of a common manager had tailed. We are informed that Babu Mani Lai Kar the

maternal grandfather of the minor, against whom none of the parties before us has got anything whatsoever to say, is willing to be appointed as

guardian of the minor's property and further that he is in a position to furnish security to the extent of Rs. 1,000 which would be the approximate

amount of the income of the property for the period of one year. In those circumstances, we would direct the learned District Judge to receive

from the said maternal grand-father of the minor the application which he proposes to file for being appointed guardian of the minor's property and

on receipt of that application (sic) will proceed forthwith to deal with the matter and will appoint him such guardian, provided in his opinion the

security he is prepared to furnish is sufficient. In considering whether the security should be considered sufficient or not, the opinion of the

Respondent in this appeal, in our judgment, would not be of much weight, in view of the allegation which has been made as against him.

3. We wish to make it clear that this order of ours will not in any way affect the position of the Appellant in so far as she is the guardian of the

person of the minor. The Rule is discharged.