

GAHC010024432021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Tr.P.(C)/6/2021

ARUNDHATI DAS
W/O SRI DIPAYAN PAUL, D/O LATE ARINDAM DAS, R/O JOGESH ROAD,
TARAPUR, P.O. AND P.S. SILCHAR, DIST. CACHAR, ASSAM.

VERSUS

DIPAYAN PAUL
S/O SRI NIKHIL CHANDRA PAUL, R/O WARD NO. 2, RABINDRA SARANI,
HAILAKANDI TOWN, P.O. HAILAKANDI, DIST. HAILAKANDI, ASSAM, PIN
788151

Advocate for the Petitioner : Ms. A. Borah, Advocate

Advocate for the Respondent : Ms. S.S Bora, Advocate

BEFORE
HONOURABLE MR. JUSTICE DEVASHIS BARUAH

ORDER

Date : 29.05.2024

Heard Ms. A. Borah the learned counsel appearing on behalf of the petitioner and Ms. S.S. Bora, learned counsel appearing on behalf of the respondent.

2. This is an application under Section 24 of the Code of Civil Procedure, 1908 for transfer of Misc (Guardianship) Case No. 05/2020 pending in the Court of the learned District Judge, Hailakandi under Section 10 of the Hindu Minority Guardianship Act,

1956 as well as the Guardianship and Wards Act, 1890 for appointment/declaration of the guardian in respect of the minor Smti Dopati Paul (daughter) and Sri Deep Jyoti Paul (son).

3. It has been submitted by the learned counsel on behalf of the both the parties that during the pendency of the instant transfer proceedings, Master Deep Jyoti Paul expired.

4. The question now arises as to whether this Court should transfer the proceedings from the Court of the District Judge, Hailakandi to the Court of the Principal Judge, Family Court, Cachar.

5. This Court takes note of Section 9 of the Guardianship and Wards Act 1890, which stipulates that the jurisdiction to file an application seeking Guardianship shall lie before the Court where the minor ordinarily resides.

6. Taking into account that the minor is presently residing with the respondent at Hailakandi and the statutory mandate in terms with Section 9 of the Guardian and Wards Act 1890, this Court is of the opinion that the instant application is misconceived and lacks merits for which the same stands dismissed.

7. The interim order passed on 19.02.2021 stands vacated and the parties are directed to appear before the learned District Judge, Hailakandi on 15.07.2024.

JUDGE

Comparing Assistant