

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Appeal No.106 of 2013

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Deo Nath Rai, son of Sri Ram Singhasan Rai, Resident of X.T.T.I. Colony, Post Digha, P.S. Digha, District- Patna.

.... Appellant

Versus

Rajiv Kumar Yadav, son of Sri Gauri Shankar Yadav, resident of Chakaram Devi Asthan, P.S. Budha Colony, District- Patna, at present resident of Mohalla Kahralla, New Colony Post and P.S. Mohan Nagar, District- Gaziabad, State Uttar Pradesh.

.... Respondent

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Appearance :

For the Appellant : Mr. Anil Kumar Sinha, Advocate.
Mr. Abhimanyu Deo, Advocate.

For the Respondent : Mr.

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CORAM: HONOURABLE MR. JUSTICE V.N. SINHA

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE V.N. SINHA)

Date: 30-04-2015

Maternal grandfather of the girl child has filed this appeal assailing judgment dated 05.02.2013 passed by Additional Principal Judge, Family Court, Patna in Guardian Case No. 22 of 2004, whereunder court below has refused to declare him the guardian of his two granddaughters. Sole respondent is the father of the two girl child whose maternal grandfather wants to be declared guardian as mother of both the girl child Rinku Devi left for her heavenly abode, whereafter case under Section 304B of the Penal Code was instituted against respondent.



2. It appears respondent has been acquitted in the said case but appeal filed against the judgment of acquittal is said to be pending in Allahabad High Court. It is submitted on behalf of the appellant that until disposal of the appeal maternal grandfather of the two daughters of sole respondent be declared their guardian as there is every likelihood of sole respondent being convicted and that he being responsible for the unnatural death of his wife is not likely to take care of the two daughters, thereby the welfare of the girl child may be compromised.

3. We have noted the submission only for rejecting the same as sole respondent having been acquitted of the criminal charge, only because the appeal is pending, it cannot be presumed that he is likely to be convicted, further he being looking after younger daughter who is in his custody and there is no complaint from any corner that her welfare is not being looked after by the father, the court below having appraised the evidence led by the parties has refused to declare the maternal grandfather to be the guardian of the two girl child, as such, we are not inclined to reverse the said finding.

4. The appeal is, accordingly, dismissed.

(V.N. Sinha, J)

(Nilu Agrawal, J)

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