

Item-25. 04-11-2022

sg

Ct. 8

FMA 3529 of 2016

Tultul Biswas
Versus
Kamal Bapari

The appellant is not represented nor any accommodation is prayed for on behalf of the appellant. The appellant was also not represented on the earlier occasion.

The appeal is arising out of an order dated 30th November, 2015 passed by the learned Additional District and Sessions Judge, 5th Court, Barasat, North 24-Parganas in connection with an application under Section 7 of the Guardians and Wards Act, 1860 filed by the appellant against the opposite parties.

It appears from the record that after the birth of the child, the mother expired on 4th June, 2014. The respondent appears to have remarried and it is the allegation of the appellant that by reason of second marriage, the child was not receiving sufficient care and in such circumstances it is appropriate that the custody be given to the appellant.

The learned Trial Court proceeded on the basis that the present opposite party is the father of the ward and in view of the provisions of the Guardians and Wards Act, he is the natural guardian of the ward in absence of his (Kritika) mother. The learned Trial Court also could not find any evidence that Kritika was not being looked after properly or taken care of properly by his natural guardian. It was on such consideration, the petition was dismissed on 30th November, 2015.

The appeal is arising out the said order. The appellant seems to have not taken any steps thereafter excepting filing this appeal

on 28th January, 2016. This long passage of time would show that the appellant is also not interested to have custody of the child and it is presumed that in the meantime the bonding between the child and the father has developed which we do not proposed to disturb.

Under such circumstances, we dismiss the appeal at the admission stage. However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)