

IN THE HIGH COURT OF ORISSA AT CUTTACK
GUAP NO.01 OF 2022

Harihar Naik and others ***Petitioners***
Mr.Arijeet Mishra, Advocate
-versus-
Ramakanta Naik ***Opp. Party***

CORAM:
JUSTICE K.R. MOHAPATRA

Order No.

ORDER
27.10.2022

GUAP NO.01 OF 2022
and I.A. No.1 of 2022

1. 1. This matter is taken up through hybrid mode.
2. 2. I.A. No.1 of 2022 has been filed for condonation of delay of 52 days in filing the appeal.
3. 3. Mr. Mishra, learned counsel for the Appellants-Petitioners submits that the Appellants-Petitioner Nos.1 and 2 are maternal grandparents of the child. The Petitioner Nos.3 and 4 are maternal uncle of the minor child. The Opposite Party is the natural father of the minor child, namely, Pritesh Kumar Naik, who was born on 08th September, 2017. Immediately after his birth, the mother of the child expired. Hence, the child was being taken care of by the Appellants-Petitioners and he was pursuing his studies in Sishu Mandir, Phuljhar staying with them. When the matter stood thus, the Respondent-Opposite Party filed Misc. Civil Appl (Gua) No.31 of 2018 under Section

8 of the Guardians and Wards Act, 1890 praying inter alia to appoint him as the legal guardian of the minor child. Learned Judge, Family Court, Keonjhar without properly considering the matter disposed of the proceeding vide order dated 18th April, 2022 with the following order:

“The petition be and the same is allowed on contest but under the circumstance without any cost. The petitioner, Ramakanta Naik being the father of the minor son Pritesh Kumar Naik is hereby declared as the legal guardian for all purpose till he attains majority. Petitioner is directed to take proper care and to look after the welfare of his minor son like his education, medical care etc. and failure on his part, the respondents are at liberty to move before this court for modification of order if required for the same. The respondents are vested with right to see the minor child whenever they desire without disturbing the education of minor child to which the petitioner shall allow without hesitation.”

4. It is submitted by Mr. Mishra, learned counsel that the Appellants-Petitioners have no grievance with regard to appointment of the Opposite Party as the guardian of the child, but they apprehend that the Opposite Party may not allow to visit the child. In that view of the matter, this appeal has been filed. Due to communication gap between the Petitioners and their counsel, delay of 52 days has occurred in filing the appeal. Hence, he prays for condonation of delay in filing the appeal and to issue notice to the Respondent for hearing of the appeal.

5. Considering the fact that the Appellants-Petitioners do not have any grievance with regard to appointment of

Respondent-Opposite Party as the guardian of the child, this Court is not inclined to entertain the application for condonation of delay, as it would serve no purpose, more particularly when the Family Court has given liberty to the Petitioners-Appellants to move the Court for modification of the order, if the Opposite Party fails to take care of the child.

6. The I.A. and the GUAP are, accordingly, disposed of with an observation that if any fresh cause of action arises with regard to visitation of the child, the Appellants-Petitioners may work out their remedy in accordance with law.

Urgent certified copy of this order be granted on proper application.

(K.R. Mohapatra)
Judge

bks/sn

