

AD- 9
Ct No.16
18.02.2025
(SSS)

FMAT 39 of 2025
With
CAN 1 of 2025

Pallabi Dutta (Das)
Vs.
Ajoy Das

Mr. Kumar Jyoti Tewari,
Mr. Panchanan Hajra,
Ms. Rajlakshmi Ghatak,
Mr. Aniruddha Tewari,
Ms. Samriddhi Nayak
....For the Appellant.

Mr. Anindya Halder,
Mr. Zubair Ahmed
....For the Respondent.

1. Affidavit of service filed today be kept on record.
2. Two preliminary objections are taken to the maintainability of the appeal by learned Counsel for the respondent. First, it is argued that the impugned order, coming within the contemplation of Section 12 of the Guardians and Wards Act, 1890, is not appealable under Section 47 of the said Act. Secondly, it is contended that there have been subsequent extensions of the interim order which has been challenged herein. Since the extension orders have not been assailed, the present appeal, even if allowed, would be toothless.

3. Learned Counsel for the respondent cites a coordinate bench judgment of this court in the matter of *Siddharth Gupta vs. Somdeo Gupta & Others* (FMAT 1102 of 2017) in support of the latter contention.

4. Learned Counsel for the petitioner submits that the impugned order is in the nature of one under Section 7 of the Guardians and Wards Act, 1890 and not an interlocutory order under Section 12.

5. However, upon a perusal of the relevant provisions of the Guardians and Wards Act, we are of the opinion that the impugned order pertains to “protection of the person” of the minor and, as such, comes within the purview of Section 12 of the said Act. Hence, no appeal lies against such order.

6. In view of the above observations, we are not required to enter into the merits of the second objection as to maintainability.

7. Accordingly, FMAT 39 of 2025 and CAN 1 of 2025 are dismissed as not maintainable, with liberty to the appellant to prefer an appropriate challenge before the proper forum.

8. Leave is granted to the learned Advocate-on-record for the appellant to take back the certified copy of the impugned order upon furnishing a photocopy of the same for the records.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)