2026:AHC:211989

Reserved on 7.7.2026
Delivered on 9.10.2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

FIRST APPEAL FROM ORDER No. - 3521 of 2011

Smt. Shashi

.....Appellant(s)

Versus

Smt. Sona Devi And Another

.....Respondent(s)

Counsel for Appellant(s)	:	Dinesh Singh
Counsel for Respondent(s)	:	Chetan Chatterjee

Court No. - 54

HON'BLE ANIL KUMAR-X, J.

1. This appeal has been filed by the appellant with a prayer to set aside the judgment/order dated 24.9.2011 passed by the learned Additional District Judge, Court No.10, Saharanpur in Misc. Suit/Case No.18 of 2009, insofar as it affects the appellant.

Facts of the Case

2. The respondent-applicant, Smt. Sona Devi, claiming herself to be the grandmother of minor Dev Sehgal, filed an application for her appointment as his guardian. It was stated that the minor was born on 24.09.2005 and his father, late Sushil Sehgal, who was serving in the Police Department, died on 09.10.2005. According to the applicant, after the death of his father, the minor’s mother, Mannu Devi, left him and thereafter the minor remained in her care and custody. She claimed that she was maintaining and educating the minor and that for his welfare required her appointment as guardian. The appellant, Smt. Shashi, opposed the application stating that she was the legally wedded wife of

late Sushil Kumar, who died on 09.10.2005, and that he had never married Mannu Devi. It was, therefore, contended that the minor was not the son of late Sushil Kumar.

Findings of the Court Below

3. The learned Court below, after considering the evidence on record, including the affidavit of the applicant, death certificate of late Sushil Sehgal, birth certificate of the minor and family register, accepted the claim of the applicant and appointed her guardian of the minor during his minority. She was directed to maintain and educate the minor and to utilise the pension payable to him for his welfare. It was further provided that if the minor's mother, Mannu Devi, appeared before the Court, her claim regarding guardianship would be considered in accordance with law.

Arguments

4. Shri Dinesh Singh, learned counsel for the appellant has submitted that the minor is not the son of late Sushil Kumar and, therefore, is not entitled to any pensionary benefit under the U.P. Police (Extra Ordinary Pension) Rules, 1961. It is further submitted that the learned Court below erred in permitting the respondent-applicant to receive the pension on behalf of the minor.

5. Shri Chetan Chatterjee, learned counsel for the respondent-applicant has supported the impugned order and submitted that the applicant is the grandmother of the minor, who has been continuously in her care and custody. It is submitted that the finding regarding the minor's parentage is supported by the birth certificate, family register and other documents and the appellant has produced no evidence to disprove the same.

Conclusion

6. I have considered the submissions advanced by learned counsel for the parties and perused the record.

7. The objection regarding entitlement of the minor to pension does not call for consideration in the present proceedings. The learned Court below has not determined the entitlement of the minor to pension. The record indicates that pension in favour of the minor had already been approved in Misc. Case No. 90 of 2006. The direction in the impugned order was only to permit the guardian to receive and utilise the pension on behalf of the minor for his welfare, education and maintenance.

8. So far as the question of parentage is concerned, the respondent-applicant relied upon the birth certificate, family register and other documents, which were considered by the learned Court below. The appellant has not produced any documentary or other reliable evidence to controvert the said documents. Mere assertion that late Sushil Kumar had not married Mannu Devi, without any supporting evidence, is not sufficient to discard the documentary evidence relied upon by the applicant. Thus, no error or perversity is found in the findings recorded by the learned Court below warranting interference in the present appeal.

9. Accordingly, the appeal is **dismissed**. The impugned order passed by the learned Court below is affirmed.

(Anil Kumar-X,J.)

October 9, 2026
SK

Digitally signed by :-
SUSHEEL KUMAR
High Court of Judicature at Allahabad