

**IN THE COURT OF PRINCIPAL JUDGE, FAMILY COURT,
DISTRICT - GOPALGANJ (BIHAR)**

**PRESENT : DHIRENDRA BAHADUR SINGH,
PRINCIPAL JUDGE,
FAMILY COURT, GOPALGANJ
DATE OF JUDGMENT : 09-06-2026**

GUARDIAN & WARDS CASE NO. - 01/2021

(C.I.S. NO.- 01/2021)

(U/S 6 OF HINDU MINORITY & GUARDIANSHIP ACT, 1956)

IN THE MATTER OF :

**Krishna Singh aged about 65 years, s/o Late Madan Singh,
r/o village- Olipur, P.S.- Yadopur, District- Gopalganj**

..... Applicant

VS.

**Priti Devi aged about 35 years, w/o Late Govind Singh d/o
Late Jaleshwar Singh r/o village- Olipur, P.S.- Yadopur,
District- Gopalganj A/P r/o village- Jogirhan, P.S.-
Sidhwaliya, District- Gopalganj**

..... O.P.

Learned counsel for the applicant :- Sri Vijay Kumar Srivastava
Learned counsel for the O.P. :- None

Date of filing	: 16.01.2021
Date of admission	: 04.02.2021
Judgment reserved on	: 18.05.2026
Date of Judgment	: 09.06.2026

JUDGMENT

1. The present case has been filed u/s 6 of Hindu Minority and Guardianship Act, 1956 by the applicant Krishna Singh for getting the custody of his granddaughters namely Sunita Kumari and Anushka Kumari and any other proper relief as the court thinks fit.

BRIEF FACTS DISCLOSED IN THE PETITION

2. The brief facts which give rise to the present case is that Late Govind Singh was son of applicant Krishna Singh and the deceased was married to

O.P. Priti Devi in the year 2016 according to Hindu rites and customs at village- Jogirhan, P.S.- Sidhwaliya, District- Gopalganj and thereafter the O.P. came to matrimonial home. It has also been stated that O.P. gave birth to two daughters namely Sunita Kumari and Anushka Kumari out of the wedlock. It has further been stated that applicant's son passed away on 19.09.2019 and thereafter the O.P. took away ornaments worth Rs. 84,000/- and Rs. Ten thousand cash and she went to her MAYAKA. It has also been stated that the applicant filed complaint case no. 1283/2020 on 06.10.2020 in the learned court of C.J.M., Gopalganj against the O.P. and others and the O.P. has been living in MAYAKA along with two minor daughters. It has also been stated that the O.P. has contracted another marriage and both the daughters have been in custody of O.P. and their life is not safe. It has further been stated that the applicant made several efforts to bring the custody of minor daughters but O.P. made fake promises and put him in dark. It has also been stated that PANCHAYATI was held on 28.12.2020 at the O.P.'s house but O.P. refused to hand over the minor daughters to applicant and he filed the present case. It has further been stated that the cause of action arose on 06.10.2020 when the O.P. went to her MAYAKA along with minor daughters and she took away ornaments and cash with her and she refused on 28.12.2020 to hand over the minor daughters to applicant. Lastly the applicant prayed to direct the O.P. to handover the minor daughters of Late Govind Singh namely Sunita Kumari and Anushka Kumari to the applicant.

REPLY OF THE O.P.

3. The present proceeding is ex parte and no reply has been filed on behalf of O.P.

CASE HISTORY

4. The present case has been filed on 16.01.2021 and admitted on 04.02.2021. After due service of notices the case proceeded ex parte vide order dated 15.02.2024. During course of evidence, A.W. 1 Chota Lal Singh, A.W. 2 Krishna Singh and A.W. 3 Raghav Ray have been examined on 06.04.2024, 03.07.2024 and 07.03.2026 respectively. Evidence of the applicant has been closed on 06.04.2026. Photocopy of death certificate of

Govind Ray and photocopy of birth certificate of Sunita Kumari has been exhibited as Exhibit- A-1 and A-2 respectively. Lastly after hearing the argument the case has been posted for judgment.

EVIDENCE OF THE APPLICANT

5. Altogether three witnesses have been examined on behalf of applicant. A.W. 1 Chota Lal Singh, A.W. 2 Krishna Singh and A.W. 3 Raghav Ray have been examined on 06.04.2024, 03.07.2024 and 07.03.2026 respectively.

6. A.W. Chota Lal Singh has been examined on 06.04.2024 who has stated in para no. 1 of his examination-in-chief that applicant Krishna Singh has filed the present case against the O.P. Priti Devi. The O.P. Priti Devi and Gobind Singh has one girl child namely Sunita Kumari out of the wedlock. In para no. 2 he has stated that Gobind Singh passed away in the year 2019. In para no. 3 he has stated that O.P. Priti Devi has been living in MAYAKA at village- Jogiraha, P.S.- Sidhwaliya, District- Gopalganj. In para no. 4 he has stated that applicant wants to keep his granddaughter.

During court question, in para no. 5 he has stated that O.P. filed a case against her father-in-law Krishna Singh for property and no dowry harassment case is pending. In para no. 6 he has stated that Gobind Singh is a drunkard and in morning he (Gobind Singh) had passed away in village- Olipur.

7. A.W. 2 Krishna Singh is applicant himself who has stated in para no. 1 of his examination-in-chief that he is father of Gobind Singh who was married with O.P. Priti Devi and the O.P. has two daughters out of the wedlock namely Sunita and Anushka and Gobind Singh passed away in the year 2019. In para no. 2 he has stated that after the death of Govind Singh the O.P. Priti Devi went to MAYAKA along with her both daughters. The O.P. went to MAYAKA with her brother and she took away ornaments worth Rs. 84,000/- and Rs. Ten thousand cash to her MAYAKA. In para no. 3 he has stated that O.P. took away ornaments and she went to her MAYAKA along with daughters and he filed several cases against his daughter-in-law. In para no. 4 and 5 he has stated that he went on 28.12.2020 to O.P.'s MAYAKA along with 2-4 persons but neither the O.P. nor minor daughters were present

at home and thereafter he filed the present case for Guardianship. In para no. 6 he has stated that he wants to keep both the minor daughters of O.P with him.

During court question, in para no. 7 he has stated that he made ornaments for his daughter-in-law after two years of marriage. In para no. 8 he has stated that his granddaughters are missing and he never gave any information to police regarding that. In para no. 9 he has stated that his son Govind Singh was living with him at home and his son and daughter-in-law maintain their minor daughters. Sunita is aged about five years and Anushka is aged about three and half years.

8. A.W. 3 Raghav Rai is an independent witness and he has stated in para no. 1 of his examination-in-chief that applicant filed the present against the O.P. In para no. 2 and 3 he has stated that O.P.'s husband name is Govind Singh who passed in the year 2019. In para no. 4 he has stated that O.P. has two girl children out of the wedlock namely Anushka and Sunita. In para no. 5 he has stated that O.P. went to MAYAKA along with minor daughter in the year 2020. In para no. 6 he has stated that Anushka passed away. In para no. 7 he has stated that he went along with applicant at the O.P.'s MAYAKA village- Jogiraha and the O.P. refused to return to matrimonial home. In para no. 8 he has stated that O.P. contracted another marriage. In para no. 9 he has stated that applicant filed the present case for maintaining granddaughters.

During court question, in para no. 10 he has stated that applicant's granddaughter is aged about four years and he denied knowledge regarding name of granddaughter. In para no. 11 he has stated that he met with children in the year 2019. He went after the death of Govind Singh to meet children and he talked with O.P. Priti Devi. In para no. 12 he has stated that applicant never maintains the O.P. and minor daughters.

EVIDENCE OF THE O.P.

9. The present proceeding is ex parte and no evidence has been produced on behalf of O.P.

POINTS FOR DETERMINATION

10 In the present case following are the points for determination -

- (i). Whether the suit as framed is maintainable?
- (ii). Whether any valid cause of action arose for the case?
- (iii). Whether this court has got jurisdiction to try, entertain and adjudicate the case?
- (iv). Whether the applicant is entitled to get the custody of minor daughters and future of the minors will be safe in his hands?
- (v). Whether the future of minor is safe under the guardianship of her mother/O.P. at his maternal grandfather's place?

ARGUMENT OF APPLICANT

11. Learned Counsel for the applicant submitted that the applicant's son namely Govind Singh passed away and the O.P. gave birth to two daughters out of the wedlock. He further submitted that the O.P. went to MAYAKA and she took away ornaments worth Rs. 84,000/- and cash of Rs. Ten thousand. He has also submitted that the O.P. has contracted another marriage and Panchayati was held on 28.12.2020 and the O.P. refused to hand over the daughters to applicant. Lastly it has been prayed to allow the present case and hand over the minor daughters to the applicant.

ARGUMENT ON BEHALF OF THE O.P.

12. The present proceeding is ex parte and no argument has been advanced on behalf of O.P.

FINDINGS

13. The present Guardianship case has been filed under Section 6 of the Hindu Minority and Guardianship Act, 1956. It is the case of applicant that his son Late Govind Singh was married to O.P. Priti Devi in the year 2016 according to Hindu rites and customs at village- Jogirhan, P.S.-Sidhwaliya, District- Gopalganj and the O.P. went to matrimonial home and thereafter she gave birth to two daughters out of the wedlock namely Sunita Kumari and Anushkha Kumari. It has also been stated that Govind Singh passed away on 19.09.2019 and thereafter the O.P. took away ornaments worth Rs. 84,000/- and Rs. Ten thousand cash and went to her MAYAKA on 06.10.2020. The

applicant filed complaint case no. 1283/2020 in the learned court of C.J.M., Gopalgan against the O.P. and others. It has further been stated that O.P. has been living at MAYAKA and she has contracted another marriage. It has also been stated that applicant organized PANCHAYATI on 28.12.2020 at O.P.'s house and there the O.P. refused to handover the daughters to the applicant. The cause of action arose on 06.10.2020 when the O.P. went to MAYAKA along with ornaments and cash and the O.P. lastly refused to handover the daughters to him on 28.12.2020. It has been stated that Family Court, Gopalganj has jurisdiction and it has been prayed that custody of minor daughters Sunita Kumari and Anushka Kumari be handed over to the applicant and any other relief be awarded to the applicant which the court thinks fit.

14. Following are the points for determination in this case which will be discussed one by one in the light of above discussion and material available on record -

(i). Whether the suit as framed is maintainable- The applicant filed the present case under Section 6 of the Hindu Minority and Guardianship Act, 1956. He disclosed that his son Late Govind Singh was married to O.P. Priti Devi in the year 2016 according to Hindu rites and customs at village- Jogirhan, P.S. - Sidhwaliya, District- Gopalganj and two daughters namely Sunita Kumari and Anushka Kumari have been born out of the wedlock of Late Govind Singh and Priti Devi. But the applicant has not mentioned the date of birth and ordinary residence of the minor. It has also not been mentioned in the plain that whether the application is for the appointment or declaration of a guardian of the person of the minor, or of their property, or of both. The cause of action is said to be arisen on 06.10.2020 and 28.12.2020. He has filed the proper court fee. Hence the suit has not been framed in a proper manner. However it is essential for the ends of justice to consider other aspects also.

(ii). Whether any valid cause of action arose for the case- It has been mentioned in plaint para no. 11 that cause of action arose on 06.10.2020 and 28.12.2020 when the O.P. went to MAYAKA along with minor daughters and

refused to hand over the minor daughters. But during course of evidence A.W. 2 has stated in para no.4 of his evidence that on 28.12.2020 he went to MAYAKA of the O.P. and neither the Priti/O.P. nor the minor children were there. In this way the applicant himself contradicted the plaint para no.10 according to which a PANCHAYATI was organized on 28.12.2020 at the MAYAKA of O.P. and the O.P. refused to handover the daughters. Thus the cause of action dated 28.12.2020 mentioned in the plaint has been falsified by the evidence of the applicant. A.W.1 has not whispered a single word regarding the cause of action. A.W.3 has also not stated anything regarding dates on which the cause of action is said to be arisen. Hence the applicant miserably failed to prove the cause of action in this case.

(iii). Whether this court has got jurisdiction to try, entertain and adjudicate the case -The applicant and O.P. are permanent resident of Gopalganj District which is well within the jurisdiction of this Court. But during course of evidence the applicant himself stated in para no.8 that his grand daughters Sunita and Anushka are traceless. He has also stated in para no.10 that his daughter-in-law Priti is also traceless. Hence the applicant fails to prove that whether this court has got jurisdiction to try, entertain and adjudicate the case or not.

(iv). Whether the applicant is entitled to get the custody of minor daughters and future of the minors will be safe in his hands – The Section 6 of the Hindu Minority and Guardianship Act, 1956 provides that: the natural guardian of a Hindu minor, in respect of the minor's person as well as in respect of the minor's property(excluding his or her undivided interest in joint family property), are-

(a) in the case of a boy or an unmarried girl- the father, and after him, the mother, provided that the custody of a minor who has not completed the age of five years shall ordinarily be with the mother;

(b) in the case of illegitimate boy or an illegitimate unmarried girl- the mother, and after her, the father;

(c) in the case of married girl, the husband;

It is the settled principle of law that Section 6 of the Hindu Minority and Guardianship Act, 1956 states that after the death of father, the mother is natural guardian of children. But in the present case applicant is paternal grandfather of minor daughters and he has zero presumptive right to get the custody of minor daughters.

Furthermore, during course of evidence, in para no. 9, A.W.2 has stated that his son Late Govind Singh was living at home and his daughter-in-law was also living at home with Govind Singh and the couple were maintaining their children. But he has stated in same para that daughters were not going to school while they were living with him. A.W. 2 has also stated in para no. 12 of his evidence that applicant never maintains his daughter-in-law and granddaughters after 28.12.2020 as he never met to them after that day. He is such a person that he has taken no care of his widow daughter-in-law and minor granddaughters after the death of his son. He miserably fails to prove that in what a manner welfare of the minors is at stake under the guardianship of their mother Priti Devi/O.P. The applicant has not filed proper affidavit regarding assets and liabilities with bank account details. From exhibit-A1 it is apparent that Govind Singh @ Govind Rai died on 25.09.2019 and as per plaint para no.3, the O.P. stayed at matrimonial home with minor children upto 06.10.2020 and thereafter she went to her MAYAKA. During this period, the applicant has never taken any step for welfare of the O.P. and minor children. Hence welfare of the minor is not safe in the custody of the applicant and he is not entitled for the custody of minor daughter.

(v) Whether the future of minor is safe under the guardianship of her mother/ O.P. at his maternal grandfather's place- From the above discussion, it is above board that future of the minor daughters is safe under the guardianship of her mother/O.P. The applicant has not filed even a chit of paper regarding any step taken by him for the welfare of minor daughters and he never provided any maintenance or expenses towards study of the minor daughters. Hence this court reached to the conclusion that the future of minor is safe under the guardianship of her mother/O.P. at his maternal grandfather's place.

15. Having considered all the arguments, all the materials available on record as well as from the above discussions it is hereby:

ORDERED

that the present Guardianship case is dismissed ex parte. Miscellaneous applications, if any, pending stand disposed. No order as to cost. O.C. is directed to draw the decree accordingly and thereafter to consign the case record in record room as per rules.

Dictated & Corrected

Dictated

**(DHIRENDRA BAHADUR SINGH)
PRINCIPAL JUDGE,
FAMILY COURT. GOPALGANJ
DATED – 09.06.2026**

**(DHIRENDRA BAHADUR SINGH)
PRINCIPAL JUDGE,
FAMILY COURT. GOPALGANJ
DATED – 09.06.2026**