

Act VIII Case No. 62/2023

Order No. 05 dated 29-02-2024

The petitioner, claiming herself to be the mother of the minor namely, Ankush Biswas, has preferred the instant application under Sections 7 of the Guardian and Wards Act, 1890 with a prayer that she may be appointed as guardian of the person and property of said minor, namely, Ankush Biswas.

The brief fact of the case is that, tThe instant petitioner who is the mother of the minor namely, Ankush Biswas, son of Late Amiya Biswas resident of Vill. Simurali-Chanduria Satsang Mandir, P.O. Simurali, P.S. Chakdaha, P.S. Chakdaha District- Nadia has sought for an order for appointment of guardian of person and property of Minor Ankush Biswas.

It is stated that the petitioner got married with Amiya Biswas since deceased on 31-07-2006 as per Hindu Marriage Act, 1955 and out of such wedlock one child namely, Ankush Biswas was born on 08-09-2011 and he was aged about 12 years at the time of filing this application.

It is stated that deceased Amiya Biswas was an employee under Irrigation & Waterways Directorate, office of the Executive Engineer, Nadia Irrigation Division, Government of West Bengal posted at Jalangi Bhawan, Krishnagr, Nadia who died on 17-05-2021 due to Covid-19 leaving his minor son Ankush Biswas and widow mother Juthika Biswas as his legal heirs and representative.

After demise of Amiya Biswas, present petitioner applied before the Executive Engineer, Nadia Irrigation Division, Krishnagar, Nadia for disbursement of pensionary benefits of Late Amiya Biswas, U.D.C. under the office of the Sub-Divisional Officer, Ranaghat Irrigation Sub-Division of Nadia Irrigation Division and in this regard office requested to submit original Legal Guardianship Certificate from proper Government Establishment which will show that under whose custody, Minor Ankush Biswas, son of Sri Amiya Biswas has been living pursuant to which the Act VIII case being no. 17 of 2022 was filed before the Ld. District Judge, Nadia at the instance of present petitioner and vide order dated 21-09-2022 Ld. Court was pleased to allow the application

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filed under Sec. 25 of the Guardians & Wards Act, appointing the present petitioner as guardian of the minor but Executive Engineer, Nadia Irrigation Division sent a notice dated 19-07-2023 to the petitioner mentioning that “the guardianship under permission of competent court of law under section 7 is mandatory in order to disbursement of death benefits as per note#19 of LR (DLREM)”. So, the instant application has been filed.

The mother of deceased Amiya Biswas has been made citee in this case.

Upon careful scrutiny of the materials on record, it is found that the summons of this case was served upon the citee who appeared and filed no objection supported by an affidavit.

To prove her case on 24-01-2024 the petitioner herself deposed as P.W. 1 by filing a written examination-in-chief on affidavit and by virtue of her oral evidence so recorded duly corroborated the contents of her petition. Her signature on affidavit has been marked as **Ext.**

1. Upon her admission documents have been tendered which has been marked as exhibits.

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| 1. | Original birth certificate of Ankush Biswas. | - Ext. 2. |
| 2. | Original voter identity card of petitioner | - Ext. 3. |
| 3. | Original Aadhar card of petitioner | - Ext. 4. |
| 4. | Original Aadhar card of Ankush Biswas | - Ext. 5. |
| 5. | Original death certificate of Lt. Amiya Biswas | - Ext. 6. |
| 6. | Original voter identity card of Juthika Biswas | - Ext. 7. |
| 7. | Letter no. 703 dated 19-07-2023 issued by
Execuive Engineer, Nadia Irrigation Division | - Ext. 8 |
| 8. | Certified copy of order no. 5 dated 21-09-2022
in connection with Act.VIII case no. 17 of 2022. | - Ext. 9. |

She has asserted further that said minor Amiya Biswas is being reared up, maintained and taken care by the petitioner herself who is a student of class VI of Rautai Secondary School (H.S) but there is no document in this regard.

It has further been submitted that appointment of guardian is required for the person and property of said minor for his overall maintenance, benefit and welfare and pursuant to the query of the Executive Engineer, Nadia Irrigation Division for disbursement of pensionary benefit of father minor Late Amiya

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Biswas, U.D.C. under Nadia Irrigation Division, I & W Dictorate.

On perusal of the documents submitted by the petitioner it appears that that Amiya Biswas (since deceased) was an employee under the office of the sub-divisional officer, Ranaghat Irrigation Sub-Division of Nadia Irrigation Division under Government of West Bengal and he died on 17-05-2021 leaving behind his minor son Ankush Biswas who is now under the custody of the petitioner/ mother who previously having applied for appointing herself as guardian of the minor by filing an application under Sec. 25 of the Guardians and Wards Act, in terms of Act VIII case no. 17 of 2022, was allowed in her favour in terms of order no. 5 dated 21-09-2022 (**Ext. 9**) but despite handing over the said certified copy of the order to the concerned Authority, they asked the petitioner mother further that the same is not sufficient enough and she has to obtain the order of the court under section 7 of the Guardians and Wards Act, 1890, in terms of **Ext. 8**. Therefore, she had filed the instant application to avail the pensionary benefit of his father Lt. Amiya Biswas.

All these oral and documentary evidences have remained uncontroverted in this case as the citee did not raise any objection to the petitioner's contention and prayer. Consequently, I am inclined to accept all the above facts as proved in this case.

On proof of the facts as above, I am of the opinion that it is expedient for the benefit and well-being of the said minor that the petitioner Ananya Biswas (Das) be appointed as guardian, as regards the person and property of the minor, namely, Ankush Biswas.

Accordingly, this case merits success.

Hence, it is

ORDERED

that the application under Sections 7 of the Guardian and Wards Act, 1890 be and the same is allowed on consent.

Accordingly, the petitioner, namely, Ananya Biswas (Das) is, hereby, appointed as guardian of the person and property of the minor, namely, Ankush Biswas.

The case is disposed of accordingly.

Dictated and corrected by me.

Sd/- S. Sen
District Judge, Nadia.

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