

**Title Suit 1131 of 2017**  
**CNR No. WBCC01-6144-2017**

**Present: Sri Subhash Kumar Kar, Judge, Bench-V (WB00592)**

**Order No. 48/ Dated 12.11.2024**

Parties have taken their respective steps.

Date is fixed for hearing of the petition dated 18.08.2023.

Heard both sides on the petition.

Seen the record.

Ld. Advocate appearing for the defendant moved this petition and submitted that the Ld. Additional District Judge, 10<sup>th</sup> Court, Alipore, South 24 Parganas has been pleased to observe in Order no. 126 dated 16.01.2023 passed in connection with O.S. no. 2 of 1999 that the plaintiff no. 4 namely Vaibhav Agarwal is not mentally capable of understanding and conducting the suit and thereby he is not capable of protecting his interest while suing and in view of the said observation he prayed for stay of the suit unless a step is taken in respect of the plaintiff no. 4.

Ld. Advocate appearing for the plaintiff submitted that even if it is accepted that the plaintiff no. 4 is not mentally capable to conduct the suit there is no provision for staying the trial of the suit and in such case the court has the power to appoint guardian and the instant petition is not maintainable in terms of his prayer.

However he proposed to appoint plaintiff no. 1 as guardian of the plaintiff no. 4 for the purpose of the suit if the court so chooses.

On perusal of the said order passed by the Additional District Judge, 10<sup>th</sup> Court, Alipore, South 24, Parganas, it appears to me that the Ld. Court has been pleased to observe that the plaintiff no. 4 is not capable of understanding and conducting the suit and he is incapable for protecting his interest while suing.

In view of the observations of the said Ld. Court the proposal of the Ld. Advocate for the plaintiff is accepted and accordingly the plaintiff no. 1, Vinty Khemani be appointed as guardian of plaintiff no. 4 Vaibhav Agarwal to conduct this suit on his behalf as she has no interest adverse to the plaintiff no. 4.

Plaintiffs are directed to amend the plaint accordingly.

Fix 30.01.2025 for hearing of the application under Order XXXIX Rules 1 and 2 of C.P.C and for filing amended plaint.

D/c by me,

Judge.

Judge, Bench-V,  
City Civil Court, Calcutta.