



IN THE COURT OF DISTRICT JUDGE, ALIPURDUAR

Present : Shri Ramesh Kumar Pradhan (J.O. Code : WB00667)
District & Sessions Judge, Alipurduar.

MISC. JUDICIAL CASE NO. 51 of 2023
C.N.R NO.-WBJP05-001689-2023

Smt. Malabika Pal (Basu)
.....**Petitioner**

Mr. Harekrishna Das, Ld. Advocate for the Petitioner.

Date of delivery of judgment : **The 23th day of July, 2026.**

J U D G M E N T

1. The case is filed by Smt. Malabika Pal (Basu), wife of Sri Anjan Basu, for the custody of the minor namely, Tirtharaj Pal, aged about 14 years, S/o Late Tapan Kumar Pal and Late Anima Pal, under Section 7 & 8 of the Guardians and Wards Act, VIII 1890 read with Section 13 of Hindu Minority & Guardianship Act. Smt. Malabika Pal (Basu), the petitioner, is the paternal aunt of the said minor.
2. In the instant case, late Anima Pal, who is the sister-in-law of the petitioner and the mother of the minor, died on 25-04-2015 and then the minor was living with his father Late Tapan Kumar Pal, but his said father died on 01-09-2023 at his own house at Alipurduar, Dist. Alipurduar, leaving behind his son, i.e. Tirtharaj Pal, aged about 14 years. Said Tirtharaj Pal was born on 18-02-2010. After demise of the father of the minor, said minor child was living under the supervision of his paternal uncles namely, Swapan Kumar Pal and Ratan Kumar Pal and thereafter, since 05-09-2023 the said minor child is in



the care and custody of his paternal aunt (here the petitioner). Presently, the petitioner along with her husband Anjan Basu are living with the said minor child and the minor also expressed his desire to live with his paternal aunt at Kolkata.

3. The deceased-brother and deceased sister-in-law of the petitioner (parents of the minor) died leaving behind their legal heir and successor as their son, namely **Tirtharaj Pal**. It is the contention of the petitioner that after demise of parents of the petitioner, the minor son is the legal heir in respect of the share owned by deceased Anima Pal and deceased Tapan Kumar Pal and their minor son become the owners of the **Scheduled A** and **Schedule B** properties. In **Schedule A** property, deceased mother Anima Pal had left **04 decimals** of land under RS Plot No. 3643 (Part), Khatian No. 395, Sheet No. 04, situated at Mouza Paschim Jitpur under PS Alipurduar, Dist. Alipurduar along with two storied residential house and household articles and one LIC Policy sum assured of Rs. One Lakh. On the other hand, in **Schedule B** properties in the name of deceased father Tapan Kumar Pal and the minor is the legal heir of **(i)** A/c No. 020060238921, under National Small Savings Scheme for one year of Rs. 1,00,000/-, **(ii)** A/c No. 020067519656, under National Small Savings Scheme for one year of Rs. 2,00,000/-, **(iii)** A/c No. 020078828816, under National Small Savings Scheme for one year of Rs. 2,00,000/-, **(iv)** A/c No. 020084119722, under National Small Savings Scheme for one year of Rs. 2,00,000/-, **(v)** A/c No. 020053430412, under National Small Savings Scheme for one year of Rs. 1,00,000/-, **(vi)** A/c No. 020049060375, under National Small Savings Scheme for one year of Rs. 1,00,000/-, **(vii)** A/c No. 020074927106, under National Small Savings Scheme for one year of Rs. 2,00,000/-, **(viii)** A/c No. 020077451777, under National Small Savings Scheme for one year of Rs. 1,00,000/-, **(ix)** A/c No. 4588192515, IFSC- IPOS0000DOP, Savings



Account balance Rs. 4,59,263/- as on 13/09/2023 in Indian Post Office Office Savings, **(x)** A/c No. 11460837872 (Savings), Balance Rs. 21,03,251.97/- as on 25/09/2022 in SBI, Alipurduar, **(xi)** A/c No. 16160110038963 (Savings), balance of Rs. 82,873.16/- as on 06/09/2022 in UCO Bank, Damanpur Branch, Alipurduar, **(xii)** A/c No. 0238010678254, balance of Rs. 1,49,189/- as on 13/09/2023 in Punjab National Bank, Alipurduar Branch, **(xiii)** A/c No. 0238010669467, balance Rs. 3,72,102/- as on 13/09/2023 in Punjab National Bank, Alipurduar Branch, **(xiv)** A/c no. 0238100528696, for one year of Rs. 49,000/- UBI now PNB, **(xv)** A/c no. 0238100501170, for one year of Rs. 49,000/-, **(xvi)** A/c no. 0238100528368, for one year of Rs. 49,000/-, **(xvii)** A/c no. 0238100529051, for one year of Rs. 49,000/-, **(xviii)** A/c no. 0238100507967, for one year of Rs. 49,000/-, **(xix)** A/c no. 0238100525237, for one year of Rs. 3,00,000/-, **(xx)** A/c no. 0238100529174, for one year of Rs. 49,000/-, **(xxi)** A/c no. 0238100506809, for one year of Rs. 49,000/-, **(xxii)** A/c no. 0238100537612, for one year of Rs. 5,00,000/-, **(xxiii)** A/c no. 0238100510059, for one year of Rs. 49,000/-, **(xxiv)** A/c no. 0238100519977, for one year of Rs. 3,00,000/- all the accounts are in United Bank of India now PNB and **(xxv)** one P.P.O. vide no. XI/131043-P in the name of Tapan Kumar Pal. Besides that said minor Tirtharaj Pal has one LIC policy sum assured of Rs. 1,50,000/- and one savings account vide No. 0238010691529 in PNB erstwhile United Bank of India, Branch Alipurduar. Presently, Tirtharaj Pal, minor son of deceased-parents Late Tapan Kumar Pal and Late Anima Pal, is studying in school. Petitioner Malabika Pal (Basu) is the paternal aunt of the said minor child and her husband Anjan Basu is a retired bank officials and they reside at Punascha Enclave, Block-B, Flat No. 3(F)21, AC Banerjee Road, Ariadaha, Kolkata 700057 and the petitioner has to took after and bear all the expenses and expenditures of the minor for her well being without any assistance from any corner. It is the contention of the petitioner that she wanted to get the custody the minor and



also the custody of the properties of the minor for the welfare of the minor.

4. In order to substantiate her claim, the **petitioner** has examined herself as **PW-1**, her husband **Anjan Basu** as **PW-2** and one **Uttam Saha** as **PW-3** and relied upon the following documents:

(i) **Exbt. 1** is the Savings Bank Pass Book being A/C No. 16160110038963 in UCO Bank in the name of Tapan Kumar Paul;

(ii) **Exbt. 2** is the Savings Bank Pass Book being A/C No. 0238010669467 in PNB Bank in the name of Tapan Kumar Paul;

(iii) **Exbt. 3** is the Savings Bank Pass Book being A/C No. 0238010678254 in PNB Bank in the name of Tapan Kumar Paul;

(iv) **Exbt. 4** is the Savings Bank Pass Book being A/C No. 11460837872 in State Bank of India in the name of Tapan Kumar Paul;

(v) **Exbt. 5** is the Pass Book being A/C No. 020060238921 in Department of Posts, India in the name of Tapan Kumar Paul;

(vi) **Exbt. 6** is the Pass Book being A/C No. 020065719656 in Department of Posts, India in the name of Tapan Kumar Paul;

(vii) **Exbt. 7** is the Pass Book being A/C No. 020084119722 in Department of Posts, India in the name of Tapan Kumar Paul;

(viii) **Exbt. 8** is the Pass Book being A/C No. 020053430412 in Department of Posts, India in the name of Tapan Kumar Paul;



(ix) **Exbt. 9** is the Pass Book being A/C No. 020049060375 in Department of Posts, India in the name of Tapan Kumar Paul;

(x) **Exbt. 10** is the Pass Book being A/C No. 4588192515 in Department of Posts, India in the name of Tapan Kumar Paul;

(xi) **Exbt. 11** is the Pass Book being A/C No. 020078828816 in Department of Posts, India in the name of Tapan Kumar Paul;

(xii) **Exbt. 12** is the Savings Bank Pass Book being A/C No. 0238010691529 in United Bank of India in the name of Tirtharaj Paul;

(xiii) **Exbt. 13** is the Term Deposit Receipt being A/C No.0238100528696 in the name of Anima Pal in United Bank of India;

(xiv) **Exbt. 14** is the Term Deposit Receipt being A/C No.0238100529174 in the name of Anima Pal in United Bank of India;

(xv) **Exbt. 15** is the Term Deposit Receipt being A/C No.0238100537612 in the name of Anima Pal in United Bank of India;

(xvi) **Exbt. 16** is the Term Deposit Receipt being A/C No.0238100506809 in the name of Anima Pal in United Bank of India;

(xvii) **Exbt. 17** is the Term Deposit Receipt being A/C No.0238100510059 in the name of Anima Pal in United Bank of India;

(xviii) **Exbt. 18** is the Term Deposit Receipt being A/C No.0238100507967 in the name of Anima Pal in United Bank of India;



(xix) **Exbt. 19** is the Term Deposit Receipt being A/C No.0238100529051 in the name of Anima Pal in United Bank of India;

(xx) **Exbt. 20** is the Term Deposit Receipt being A/C No.0238100528368 in the name of Anima Pal in United Bank of India;

(xxi) **Exbt. 21** is the Term Deposit Receipt being A/C No.0238100501170 in the name of Anima Pal in United Bank of India;

(xxii) **Exbt. 22** is the Term Deposit Receipt being A/C No.0238100519977 in the name of Tapan Kumar Pal and Anima Pal in United Bank of India;

(xxiii) **Exbt. 23** is the Term Deposit Receipt being A/C No.0238100525237 in the name of Tirtharaj Paul (minor) in United Bank of India;

(xxiv) **Exbt. 24** is the Pension Payment Order (PPO) vide No.XI/131043-P in the name of Tapan Kumar Paul;

(xxv) **Exbt. 25** is the LIC Policy vide no. 401470735 in the name of Tirtharaj Pal (minor);

(xxvi) **Exbt. 26** is the Patta Deed being No.678/06 dated 18.09.2006 in the name of Anima Paul;

(xxvii) **Exbt. 27** is the birth certificate of Tirtharaj Pal issued by Registrar (Birth and Death), Cooch Behar Municipality;

(xxviii) **Exbt. 28** This is the death certificate of Tapan Kumar Pal issued by Registrar, (Birth and Death), Cooch Behar Municipality;

(xxix) **Exbt. 29** is the death certificate of Anima Pal issued by Registrar (Birth and Death), Gossainpur Gram Panchayat, Bagdogra, Darjeeling;



(xxx) **Exbt. 30** is the Pension Payment Order of Anjan Basu;

(xxxi) **Exbt. 31** is the letter of authority signed by Mr. Prasenjit Kar with his official seal;

(xxxii) **Exbt. 32** is the legal heir certificate issued and signed by Chairman, Alipurduar Municipality.

5. Deponents, namely, **Swapan Kumar Pal** and **Ratan Kumar Pal** are examined as **OPW-1** and **OPW-2** and they raised their no objection regarding the appointment of the petitioner, who is their sister, as a Guardian of the minor children to administer his property.

DECISION WITH REASONS

6. Normally, a minor child shall be with his natural guardian, either mother or father or both and the law also presumed that the minor child is safe in the custody of the natural guardian and the child's welfare is best secured. It is a salutary principle that in deciding about a minor's custody or his/her guardianship, the welfare of the minor is of paramount consideration.
7. Therefore, in the matters of guardianship and custody of the minor child, the welfare of the child is primary and paramount and any technical objections cannot come in the way. The court while exercising his ***parens patriae*** jurisdiction has to consider the best interest of the children.
8. In the case on hand, it is found from **Exbt. 27** that minor Tirtharaj Pal is born on 18-02-2010 and his parents are deceased Tapan Kumar Pal and deceased Anima Pal. From **Exbt. 28** it appears that said Tapan Kumar Pal had died on 01-09-2023 at P.K. Saha Hospital Pvt. Ltd., Coochbehar and from **Exbt. 29** it is found that said Anima Pal had died on 25-04-



2015 at NBOC, Rangapani. From **Exbt. 26**, it is found that 0.04 Acre of land corresponding to RS Plot No. 3643, Khatian No. 395, JL No. 49 under Mouza Paschim Jitpur is a Patta Deed registered on 18-09-2006 in the name of said Anima Pal vide Patta Deed No. 678/06. It is also revealed from the legal heirs certificate (**Exbt. 32**) that petitioner Malabika Pal (Basu) is the sister of deceased Tapan Kumar Pal and minor Tirtharaj Pal is the only legal heir of deceased Tapan Kumar Pal and deceased Anima Pal Dutta and **Exbt. 1** to **Exbt. 11** and **Exbt. 13 to 23** are the pass books and term deposits lying in various banks and post office in the name of deceased Tapan Kumar Pal and deceased Anima Pal. **Exbt. 24** is the pension payment order of deceased Tapan Kumar Pal and **Exbt. 25** is the LIC policy in the name of minor Tirtharaj Pal and **Exbt. 12** is the savings pass book of United Bank of India in the name of minor Tirtharaj Pal. The petitioner, who is the paternal aunt of the minor, is looking after the minor child and willing to give him positive environment and at the time of examination by the Court minor child has shown his willingness to remain with his paternal aunt (here the petitioner).

9. Now, it is the case of the petitioner that the **Schedule A** and **Schedule B** properties is in need of look after for the sake of protection, maintenance and welfare of the child until the minor attain his majority.
10. Needless to mention, the time period is a formation face of minor who needs to pursue his education and maintain physical and mental health. The education is inseparable in minor child's life and without pursuing formal education in good academic institution and over all holistic development of the child is not possible. Undoubtedly, for making a good academic career the parent have to make huge expenses carrier of the child. Thus, in the light of the above discussion, I am of the considered opinion that the petitioner definitely requires a



handsome amount of money for the academic future and sound health and over all welfare of the minor child. Therefore, I am of the considered opinion that there is no impediment to allow the petitioner to look after the property of the said minor child for over all welfare of the minor subject to the certain terms and conditions set out hereinunder in the judgement.

11. Petitioner is found the best person for appointment as a guardian of the person and the property of the minor child for the well being of the minor. Hence, for the sake of well being of the minor, I think it will be proper to grant custody of the minor to the petitioner and appoint him as guardian for the benefit and welfare of the minor child and to administer his property.

12. In the result, the petition filed by the petitioner, i.e. the paternal aunt of the minor child, is **allowed**.

13. Hence, it is,

ORDERED

that the **Misc. Case No. 51 of 2023** be and the same is **allowed**.

Smt. Malabika Pal (Basu), the Petitioner, is appointed as a guardian of the person and property of the minor child, namely, **Tirtharaj Pal** and she is also granted custody of the minor child and his property. Petitioner is permitted to look after the right, title and interest of the properties, which are specially described on the plaint and on the record, subject to the following conditions :

(a) that the petitioner shall transfer 90% of the consideration amount lying in various banks and post offices in the name of his parents in long Term Deposits for at least 03 (Three) years or upto the minor child attains the age of majority, whichever later;



(b) 10% of amount can be utilized by the petitioner immediately showing the valid reasonable requirements for meeting the cost of daily affairs including the expenses incurred for the education, health etc. of the minor child.

The copy of this order be supplied to the petitioner free of cost.

Thus, the instant Misc Case stands disposed of accordingly.

Note it at the relevant registers and Case Information System.

The Judgment is pronounced on this 23th day of July, 2026, in open Court at Alipurduar.

Dictated & corrected by me:

(Ramesh Kumar Pradhan)
District Judge, Alipurduar

(Ramesh Kumar Pradhan)
District Judge, Alipurduar