

IN THE COURT OF ADDITIONAL SESSIONS JUDGE,
2ND COURT, BANGAON, NORTH 24 PARGANAS.

Present: Smt. Kumkum Singha (WB00712)
Additional District Judge, 2nd Court,
Bangaon, North 24 Parganas.

Misc. Case No. 14 of 2023
(CNR No. WBNP06002649-2023)

Sri Ujjal Kumar Das
Vs.
Smt. Lalit Mohan Majumder

(An application u/s 8 of Guardians and Wards Act, 1890)

Order No.16
05.02.2026

Today is fixed for order of the petition filed under Section 8 of Guardians and Wards Act, 1890 by one Ujjal Kumar Das against one Lalit Mohan Majumder.

The case is heard ex parte as the Opposite Party though appeared but did not file any written objection and by order dated 24.02.2025 the case was proceeded under Order 8 Rule 10 of CPC for ex parte hearing.

From the side of petitioner he himself is examined as PW1 and one Samim Almamun was examined as PW2.

The brief fact of the case, is that, petitioner Ujjal Kumar Das got married one Susmita Majumder as per Special Marriage Act on 17.01.2017 and since their marriage they started residing in a rented accommodation at Birati at BL-3/14 Labanya Apartment, Ramkrishnapally, Nimta, Kol-49. In their wedlock one boy child namely Arish Das took birth on 28.03.2018. They were leading very happy marital and family life but very unfortunately on 30.11.2021 one accident took place at their residence and his wife died in that accident from Gas leak from the cylinder of kitchen. Such sudden incident make the petitioner not only ill physically due to sustaining burn injury at the time of rescuing his wife but also caused severe mental trauma. As a result he became bed ridden for several weeks and he was not in a position to look after his minor little son. Then on request of mother in law and brother in law his infant son was given to the custody of his parents in law for his proper care. His son since then used to stay at his maternal grandfather's residence but the petitioner used to contribute the expenditure for upkeeping his son properly at his in laws house and he was admitted in an English Medium school namely Cygnet Day School. The present petitioner is a senior Software Developer and he is now working at a multinational firm and he has sufficient means and capability to rear up his son in a very well of manner. However, it has come to his

knowledge that in spite of sufficient financial contribution from his end his minor son was suffering from various ailments and also he was shifted to a Bengali Medium school without the consent of the petitioner. Not only that in course of time he was also not allowed to meet his son and while he tried to communicate he was threatened on several occasions and they refused to return his son to his custody. It is further stated in the petition that initially the opposite party was very much sympathetic to his condition and also advised him to take rest for some time. Accordingly he went to Digha on 12.05.2023 and returned on 14.05.2023 and when he went to meet his son they did not allow him to enter in their house. It is further mentioned that they not only stop all kinds of communication of his son with him but also they started influencing mentally that infant to go against his father. The opposite party is the maternal grandfather of the son while he being the father is very much keen and ready to nurture his son. So such obstruction caused by the opposite party causes serious prejudice to the interest and welfare of the child. Thus the instant petition was filed praying for necessary direction by the court to the opposite party to return Arish Das to the custody of the petitioner/father and all other order/orders as Ld. Court deem fit and proper.

In the instant case initially the opposite party appeared but as thereafter no steps were taken finally on 13.05.2025 the case was fixed for ex parte.

The contention of the petition has been corroborated by PW1 the petitioner himself and one of his friends as PW2. As the case has been heard ex parte their evidence on record remain unchallenged. So naturally it can be said that there is no ground to reject the prayer of the petitioner. The petitioner is the father. Thus as per Hindu Minority and Guardians Act as well as Guardian and Wards Act he is the natural guardian. Thus there is no embargo to declare the right of his custody over his ward. From this case it is appearing to me that since the date of death of the mother when that boy was very little he was handed over to the opposite party to look after him as the petitioner was both physically and mentally traumatized at that stage. So admittedly since then the son is living at her maternal grandfather's home and there he is under care of both grandfather and grandmother. On the other hand, the petitioner is still now living alone. There is no female member at his residence to look after that child of tender age. It is also admitted position that the petitioner is presently working in a IT Sector. So his nature of job is such type where he seldom will get opportunity or time to spend with the little boy. Moreover, for a long period of time there is no communication in between father and son as the maternal grandfather did not allow this petitioner to visit at his residence and to look after that child. Though the petition is heard ex parte yet at the time of disposal of petition specially relating to custody of the child the court as a

guardian must look into the matter of best interest of the child because the welfare of the child is the paramount consideration at the time of disposal of issue of custody and guardianship. Best interest of child means the basis for any decision taken regarding the child to ensure fulfillment of their basic rights and needs, identity, social well being and physical, emotional and intellectual development. Where the issue involved herein that there is a long gap between father and son so I am apprehending the chance of mental disturbance if all of a sudden the custody of the child is shifted from his very known atmosphere to a unknown, may be better environment. In my considered view the scope is to be given to the child to act and adjust with the new atmosphere he is to be brought in . Thus I think at this stage there is no doubt that the petitioner is the natural guardian of that child but the final order as to custody is to be reserved for one month to reach to finality after observing the behaviour and conduct of the child towards his father in presence of the court. Thus the petition is disposed of in part with a direction to produce the said ward before me on 12.02.2026 at 02:30 p.m. and final order.

Sent a notice to the OP directing him to produce the child before this court positively on the date fixed for appropriate order.

Dictated & Corrected by me

ADJ-2, Bangaon, North 24 Parganas.

Additional District Judge,
2nd Court, Bangaon, North 24 Parganas
(WB00712)