

(1917) 01 PAT CK 0011
In the Patna High Court

Lachmi Narain

APPELLANT

Vs

Balaram Sahai
 Raghunath Saran Vs Balaram Sahai

RESPONDENT

Date of Decision : 23-01-1917

Acts Referred:

Citation : AIR 1917 Patna 338 : 39 Ind. Cas. 662a

Hon'ble Judges : Roe, J;Chapman, J

Bench : Division Bench

Judgement

Chapman, J.—In this case the learned District Judge had before him three applications for the guardianship of the minor. The application of Balaram Sahai stated that he was the maternal uncle of the minor; the application of Lakshmi Narain stated that he was the son of the sister of the minor's father, and the application of Raghunath Saran stated that he was the grandson of the minor's father's brother. The District Judge appointed Balaram Sahai, upon the ground that there was evidence to show that the minor's mother had confidence in him and that he was in the position of guardian at the mother's death, and that the grandfather of the minor and an aunt of the minor who resides with Balaram Sahai supported his application. Against this order Lachmi Narain and Raghunath Saran appealed. The first ground taken is that no evidence having been taken in the case, the order was invalid, but it does not appear that any evidence was offered. The mother's letter appears to have been referred to by the learned Judge without any objection. The next ground taken is that both Raghunath Saran and Lachmi Narain had a prior right, having regard to the nature of their relationship to the minor. I am of opinion, however, that no person other than the father or mother has an absolute right to the guardianship of a minor. Where the only circumstances in such a case are the relationships of the different applicants, the relationship which is nearer in the view of the Hindu Law would be preferred. In the present instance there were other circumstances in the case and the order of the learned District Judge was clearly fully justified.

2. The appeals are dismissed with costs.

Roe, J.

3. I agree. The grandfather seems to me to have been the natural guardian in this case and on his expressing a wish that the respondent should be appointed guardian, it was not for anybody else to oppose this wish without good reason.