

Sham Lal Vs. Bindo

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Court : Allahabad

Decided On : Dec-05-1906

Reported in : (1907)ILR29All210

Judge : George Knox and ;Richards, JJ.

Appellant : Sham Lal

Respondent : Bindo

Judgement :

George Knox and Richards, JJ.

1. This is an appeal from an order passed by the District Judge of Moradabad under the Guardians and Wards Act. The Judge has appointed the father as guardian of the person of a Hindu child and has directed that the minor, who is a girl nearly 10 years of age, be removed from the custody of her maternal grandmother and be made over to the custody of her father. It is an admitted fact that, until this order was passed the girl has been, since the death of her mother, for a period of five years continuously residing with and has been cared for by the maternal grandmother. There is no suggestion that the maternal grandmother is in any way unfit to continue to be a guardian of the ward. She is a Hindu lady in good circumstances, and it is obvious that if she had not cared for the child she would not have kept the minor so long under her charge. It is true that there is nothing against the father, but again it is an admitted fact that he has married a second

time and the girl will have to go under the control of a step-mother, of whom probably she knows nothing. 'We cannot think that the girl, under these circumstances, will be so happy as she is in the house of the maternal grandmother. What we have to consider is what will really be for the welfare of the minor. Weighing all the circumstances we think that it will be more for the welfare of the minor to live with the maternal grandmother than with the step-mother. We accordingly decree the appeal, set aside the order of the Court below and direct that within one week from the time when our order reaches the Court below and is notified to the parties, the girl be restored by the respondent to the custody of the appellant. We make no order as to costs.

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