

CHAPTER 2.

GUARDIANS AND WARDS

PART A.—GENERAL.

1. Under section 4-A (1) of the Guardians and Wards Act, 1890, as amended by Act IV of 1926, the High Court may, by general or special order, empower any officer exercising original Civil Jurisdiction subordinate to a District Court, or authorise the Judge of any District Court to empower any such officer subordinate to him, to dispose of any proceedings under this Act transferred to such officer under the provisions of this section. The Hon'ble Judges have decided that with a few exceptions all the work under the Guardians and Wards Act should be entrusted to a Special 1st Class Sub-Judge in each district. For Subordinate Judges invested with such powers, see Volume I, Chapter 20,

Sub-Judges empowered to try cases under the Act.

2. In appointing guardians, Courts should work on the principle that the interest of the minor is the main consideration (section 7). Very often it will be found that an application for the appointment of a guardian has been made in the interest not of the minor but of the applicant, especially when the application is for the guardianship of an unmarried girl.

Minors interest is the main consideration in appointing guardians.

3. It does not follow that because an application is made for the appointment of a guardian, one must necessarily be appointed. Every application for guardianship should be laid at once before the Judge, who should only issue notice if he is satisfied after examination of the applicant (except when the applicant is the Collector) that there is ground for proceedings on the application under section 11 of the Act, and even then, he should exercise a careful discretion as to the persons to whom notice should issue {section 11(1) (a) (iv)}. It should also be noted that in certain cases a guardian cannot be appointed under the Act (section 19).

Discretion of Court in Appointing a Guardian and issuing notices or application.

In appointing a guardian the Courts shall be guided by the provisions of section 17.

4. If any application is rejected in limine the Court must give its reasons for rejection as an appeal lies under section 47 (a) of the Act.

Reasons for Rejecting an application *in-Limine* should be recorded.

No need to appoint a guardian of a deceased military servant for purposes pension.

5. Courts should not appoint a guardian, under the Guardians and Wards Act, merely in order to enable the heir of a man who has died in military service to draw a pension. A certificate signed by a Revenue Officer of or above the rank of a Naib-Tahsildar is accepted as sufficient authority for the payment of such pensions to de factor guardians.

Petty cases proceedings should terminate appointment guardian.

6. By Rule 8 of the rules framed under the Guardians and Wards Act, 1890, accounts are required (vide Part B of this Chapter) from guardians only when the annual income of the estate is likely to exceed Rs. 500 and in other cases only if the Court thinks fit to order. Having regard to the petty sums involved in the vast majority of cases, it should be the rule and not the exception that the latter class of proceedings should terminate with the appointment of the guardian. Continuous control is desirable only in the case of large properties.

Forms of Bank account for current expenses.

7. Attention is drawn to rule 13 of the rules framed under the Guardians and Wards Act 1890,— (vide Part B of this Chapter). With respect to money required for the current current expenses of the estate and of the ward's maintenance, which is not to be invested, that rule lays down no restriction as to the form of account, i.e., current account, saving account or fixed deposit account in which it may be placed. Such money should be placed in such form of Bank account as will be to the best interest of the minor.

Restrictions regarding withdrawal form Bank account.

8. When permitting the opening of an account in a Bank, the Court may direct that no withdrawal should be made by the guardian from the account except under the orders of the Court. If such restrictions are imposed on the powers of a guardian, they should be embodied in the guardianship certificate; or if a separate order to this effect is recorded, an attested copy of it should be forwarded to the Bank for registration along with an attested copy of the guardianship certificate. The Court should see in particular that the amounts kept in the Bank are no larger than are sufficient for current expenses and that all surplus money is invested in accordance with rule 13 of the rules framed -tinder the Guardians and Wards Act, 1890.—(vide Part B, of this Chapter.)

9. In case falling under Rule 14, money required for in current expenses must be deposited in the treasury and the surplus money invested in Government Promissory Notes as laid down therein.

Cases in which money for current expenses are to be deposited in treasury.

10. All pass books, Government Promissory Notes and Post Office Cash Certificates relating to Accounts of minors should be kept by their guardians and inspected by the Court at least once a year.

Pass books by etc. to be kept guardian.