BLOGS

Notes on Fundamentals of Hindu Guardianship Act

Indrasish Majumder · 24 Mar 2023

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Introduction

Guardianship is an important aspect of the care of minors and people who are unable to care for themselves. In India, guardianship is governed by different laws, including the Hindu Minority and Guardianship Act, of 1956. This Act applies to Hindus, Buddhists, Jains, and Sikhs, and it lays down the provisions for guardianship, custody, and maintenance of a minor.

Who can be a guardian?

The following people can be appointed as guardians under the Hindu Minority and Guardianship Act of 1956:

Natural Guardian: A natural guardian is a person who, by law, is entitled to be the guardian of a minor. In the absence of the father, the mother takes over as natural guardian of his legitimate children. If the child marries and has children of their own, natural guardianship is transferred to the child.

Testamentary Guardian: A testamentary guardian is a person who is appointed by the father or mother to be the guardian of their minor children in case of their death. A testamentary guardian can only act as a guardian after the death of the appointing parent.

A **court-appointed guardian** is a person appointed by the court to be the guardian of a minor. This happens when there is no natural or testamentary guardian, or if the natural or testamentary guardian is not capable of acting as a guardian.

Rights and Duties of a Guardian

A guardian has certain rights and duties towards the minor. These include:

- Maintenance and Education: It is the guardian's job to take care of the minor's needs and make sure he or she gets an education.
- Protection and well-being: The guardian is in charge of the minor's safety and well-being.
- Consent: The guardian has the right to give consent on behalf of the minor in matters of education, health, and marriage.
- Property: Until the minor reaches the age of majority, the guardian is responsible for the minor's property.
- Accounts: The guardian must keep track of the minor's property and give the court an account of it.
- Termination: The guardianship terminates when the minor reaches the age of majority.

Termination of Guardianship

The guardianship ends in the following situations:

1. The minor reaches the age of majority.
2. The minor's property comes to an end.
3. The guardian is killed.
4. The guardian renounces the guardianship.
5. The court terminates the guardianship.

Conclusion

Guardianship is an important aspect of minors' welfare in Hindu law. The Hindu Minority and Guardianship Act of 1956 defines guardianship, custody, and maintenance of a minor. A natural guardian, testamentary guardian, or court-appointed guardian can be appointed as a guardian. The guardian has certain rights and duties towards the minor, including maintenance, education, protection, and welfare. The guardianship terminates when the minor attains the age of majority, the minor's property comes to an end, the guardian dies, renounces the guardianship, or the court terminates the guardianship.