

**IN THE COURT OF THE DISTRICT JUDGE :: TINSUKIA**

District: Tinsukia

Present: **Shri C. Das,**  
District Judge,  
Tinsukia

**Misc. (Guardianship) Case No.03 of 2021**

**Smti Rupa Chowdhury,**

W/o Moinul Haque Mazumder,

R/o C/o Sri Dayal Hari Sarkar,

Professors' Colony, Tinsukia,

P.O., P.S. & Dist. Tinsukia, Assam

..... Petitioner

- Versus -

**Sri Moinul Haque Mazumder,**

S/o Late Abdul Wahab Mazumder,

R/o Hijuguri No.1 Gate, P.O. Hijuguri,

P.S. & Dist. Tinsukia, Assam

..... Opposite Party

Date: 11.05.2022

**O R D E R**

1. This is a petition u/s.9 of the Guardians and Wards Act, 1890, filed by the above-named petitioner, praying for

appointing her as guardian of her daughter, namely; Miss Akashleena Mazumder, aged 27 years and minor son, Master Adi Mazumder, aged 14 years.

2. It is stated by the petitioner that the marriage between the petitioner and the opposite party was solemnized on 06.10.1986 at Dibrugarh u/s.13 of the Special Marriage Act, 1954. After the marriage, both of them settled at Tinsukia permanently, as the opposite party was a bank employee and both of them came to Tinsukia in the year 1989. Since then and till date, both of them started leading their lives as husband and wife. Out of their wedlock, a girl child, namely; Miss Akashleena Mazumder was born on 12.04.1994 and subsequently, a baby boy, namely; Adi Mazumder was born on 04.02.2007 at Biroja Nursing Home, Rangagora Road, Tinsukia, Assam. The opposite party used to take care of the petitioner and his children, but with passage of time, the nature and behaviour of the opposite party towards the petitioner and his children changed drastically. The petitioner and the children were subjected to both physical and mental cruelty without any justifiable cause. The opposite party in a drunken state, used to beat up both the petitioner and the daughter mercilessly without any reasonable cause. The torture of the opposite party was such that he used to throw all the food items, cooked by the petitioner in to a dustbin. So, both the petitioner and the daughter used to

starve and used to spend sleepless nights most often. The petitioner and her daughter had been subjected to severe cruelties in the hands of the opposite party and having being compelled, the petitioner even registered a criminal case against him and the opposite party was sent to judicial custody as well.

3. It is further stated by the petitioner that due to the tortures, the petitioner left the company of the opposite party in the year 2010 and started living their lives. In the mean time, when her daughter attained majority, she was engaged in a job at Budding Buds Senior Secondary School, Tinsukia as she was a very bright student since her childhood and now, the daughter of the petitioner is looking after the petitioner and her younger brother. The opposite party never cared and bothered about the petitioner and the children and no basic amenities had been provided to them by the opposite party. The petitioner and her two children at the initial stage, used to stay at Congress Colony, Sripuria and after that they all shifted to Professors' Colony in the year 2012. Since then and till date, they all are living separately from the opposite party and there is no connection at all so far as, the opposite party is concerned. Her daughter Miss Akashleena Mazumder, aged about 27 years and minor son Master Adi Mazumder are ordinarily residents of Professors' Colony, Tinsukia. Moreover, her daughter is unmarried. The petitioner is a literate person

and has sufficient income to maintain both the children and for becoming the guardian of the minor. Hence, the petitioner filed the instant petition for appointing her as guardian of her daughter Miss Akashleena Mazumder and minor son Master Adi Mazumder.

4. Notice was duly served on the opposite party, but in spite of receipt of notice, the opposite party did not turn up to contest the case. Hence, the case proceeded *ex parte* against the opposite party.

5. Thereafter, the petitioner adduced her evidence-in-affidavit in support of her case. She reiterated the same facts, what have been contended in her petition. She exhibited some documents, such as:

Ext.1 – Marriage Certificate;

Ext.2– Birth certificate of Miss Akashleena Mazumder;

Ext.3 – Birth certificate of Master Adi Mazumder.

6. I have heard the learned counsel for the petitioner and carefully perused the materials available with the record. It appears from the record that the petitioner is natural mother of the two children namely; Ms. Akashleena Mazumder and Master Adi Mazumder. Both the children

were born out of wedlock between the petitioner and the opposite party. The evidence of the petitioner discloses the same. It is also appeared from the record that the petitioner is living separately from the husband/opposite party. As such, she is taking care of two children single handedly. There is no evidence to rebut the same. In absence of contrary material or evidence, it can be easily held that the petitioner being the natural mother, is the guardian of above two children. Accordingly, the instant petition is allowed.

7. It is therefore, ordered that the petitioner is appointed as guardian of Miss Akashleena Mazumder and Master Adi Mazumder for all intent and purpose.

District Judge  
Tinsukia