



RAMA
UNIVERSITY

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FACULTY OF JURIDICAL SCIENCES

**MOOT COURT EXERCISE AND
INTERNSHIP
(CLINICAL)**

Course : BBALLB , 3rd Semester

Subject code : BBL903

Faculty Name : Ms Taruna Reni Singh

Moot Court Exercise and Internship

Objective: The objective of having moot courts is to give the students practical training how the proceedings of the court takes place.

The Paper will have following components

- Moot Court: Every student may be required to do at least one moot court in a year. The moot court work will be on assigned problem.
- Observance of Trial in one case, either Civil or Criminal.
 - Students may be required to attend one trial in the course of the last year of LL.B. studies. They will maintain a record and enter the various steps observed during their attendance on different days in the court assignment.
- Interviewing techniques and Pre-trial preparations and Internship diary.
 - Each student will observe one interviewing session of clients at the Lawyer's Office/Legal Aid Office and record the proceedings in a diary. Each student will further observe the preparation of documents and court papers by the Advocate and the procedure for the filing of the suit/petition.
- The fourth component of this paper will be Viva Voce examination on all the above three aspects.
- Student will be required to undertake legal awareness programme in association with N.S.S. and other authorities as directed by the Faculty.

LECTURE 34

Extracts of relevant sections of Guardian and Wards Act 1890

7. Power of Court to make order as to guardianship-

- (1) Where the Court is satisfied that it is for the welfare of the minor that order should be made -
- (a) appointing a guardian of his person or property, or both, or
 - (b) declaring a person to be such a guardian, the Court may make an order accordingly....

8. Person entitled to apply for order -

An order shall not be made under the last foregoing section except on the application of-

- (a) the person desirous of being or claiming to be the guardian of the minor, or
- (b) any relative or friend of the minor....

12. Power to make interlocutory order for production of minor and interim protection of person and property-

(1) The Court may direct the person, if any, having the custody of the minor shall produce him or cause him to be produced at such place and time and before such person as it appoints, and may make such order for the temporary custody and protection of the person or property of the minor as it thinks proper....

19. Guardian not to be appointed by the Court in certain cases -

Nothing in this Chapter shall authorise the Court to appoint or declare a guardian of the property of a minor whose property is under the superintendence of a Court of Wards or to appoint and declare a guardian of the person -

- (a) of a minor who is a married female and whose husband is not, in the opinion of the Court, unfit to be guardian of her person, or
- (b) ‘ [***] of a minor whose father is living and is not, in the opinion of the Court, unfit to be guardian of the minor, or
- (c) of a minor whose property is under the superintendence of a Court of Wards competent to appoint a guardian of the person of the minor.

MRS ELIZABETH DINSHAW

v.

ARVAND M. DINSHAW AND ANR.

NOVEMBER 11, 1986

(V. BALAKRISHNA ERADI AND G.L. OZA, JJ)

Constitution of India, 1950- Article 32- Divorce in USA -Minor child- Custody given to mother and visitation rights to father by American Court- Father abducted the child and brought to India against express orders of the American Court - Orders of proper foreign Court - Should be regarded- Child restored to mother to be taken back to USA.

The petitioner, a citizen of the United States of America residing in Michigan, was married to the first respondent, an Indian citizen, who after marriage settled down in the United States and secured employment. A male child was born to the couple in America. Differences arose between them and the petitioner along with her son took up separate residence. She filed a petition for divorce in the Circuit Court for the country of Saginaw, Michigan, which granted a decree holding that there had been a breakdown in the marriage relationship and declared the marriage as dissolved. The decree also directed that the petitioner shall have the care, custody and control of the minor child until he reaches the age of 18 years. The first respondent, the father was given visitation rights by the decree. On the subject of travel with the minor child to any place outside the United States, it was directed that only on a petition the Court shall make a determination as to whether such travel is in the best interest of the minor child, and what conditions shall be set forth to ensure the child's return. The Court also directed that the first respondent shall notify the Office of the Friend of the Court promptly concerning any changes in his address.

Taking advantage of the weekend visitation rights granted by the said decree, the first respondent picked up the child from his school and secretly left America for India on January 11th 1986. He had not intimated the Court about his intention to take the child out of its jurisdiction and outside the country nor had he given the slightest indication to the petitioner about his intention to leave America permanently for India. Immediately before leaving for India, the first respondent sold away his immovable property and it was only from the Airport that he posted a letter tendering his resignation from his job.

Coming to know that the minor child had not been returned to the day care centre by the first respondent, the petitioner moved the Circuit Court complaining against his violation by the first respondent of the terms of the Court's decree. The Court issued a warrant of arrest against the first respondent on the ground of unlawful taking and retaining the child outside the State, followed by the issue of a Federal warrant of arrest on the ground of unlawful flight to avoid prosecution. Since the first respondent had already come over to India with the minor child these warrants could not be executed in the United States. The Consular Officer, American Consulate General, Bombay, visited the residence of the first respondent's parents in Pune but the minor child was not present there and the grandparents reported that the child and his father had gone North, possibly to Kashmir and that they were not aware of their exact wh