

Welfare of the child as a predominant consideration because no statute on the subject can ignore, eschew or obliterate the vital factor of the welfare of the minor.

It has been held that the principles of law in relation to the custody of a minor child are well settled. While determining the question as to which parent the care and control of a child should be committed, the first and the paramount consideration is the welfare and interest of the child and not the rights of the parents under a statute. The provisions contained in the Guardians and Wards Act, 1890 and the Hindu Minority and Guardianship Act, 1956 hold out the welfare of the child as a predominant consideration because no statute on the subject can ignore, eschew or obliterate the vital factor of the welfare of the minor.

Mausami Moitra Ganguli v. Jayant Ganguli, (2008) 7 SCC 673