

# PARA LEGAL TRAINING

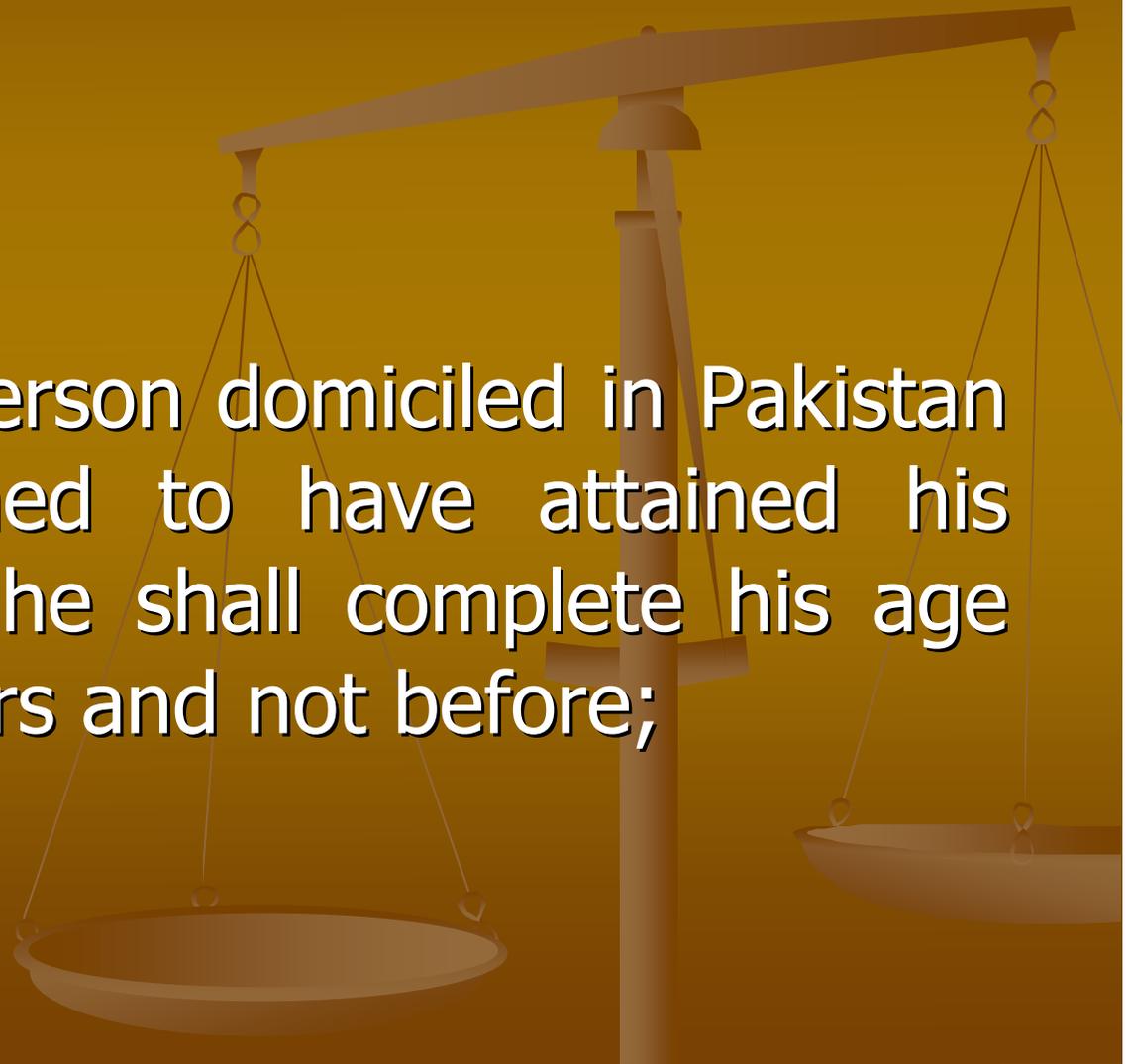


Presentation by Kashif Mustafa

# Guardians and Wards Act, 1890

- Minor

Minor means a person domiciled in Pakistan shall be deemed to have attained his majority when he shall complete his age of eighteen years and not before;

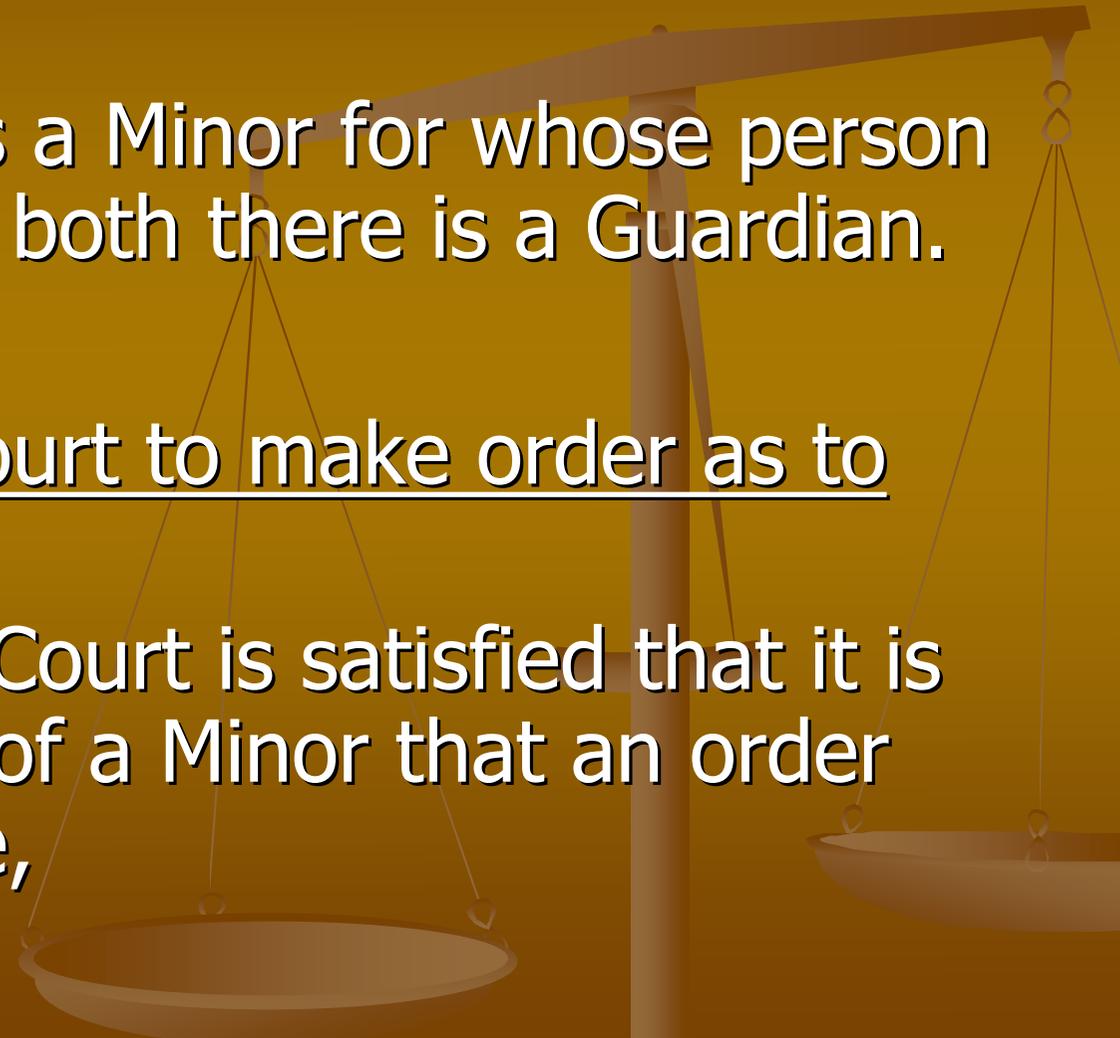


- Every minor of whose person or property a guardian is appointed, be deemed to have attained the majority when he shall have completed his age of twenty one years and not before.

(The Majority Act, 1875)

- Guardian

4(ii) means a person having the care of the person of a Minor or of his property, or of both his person and property.

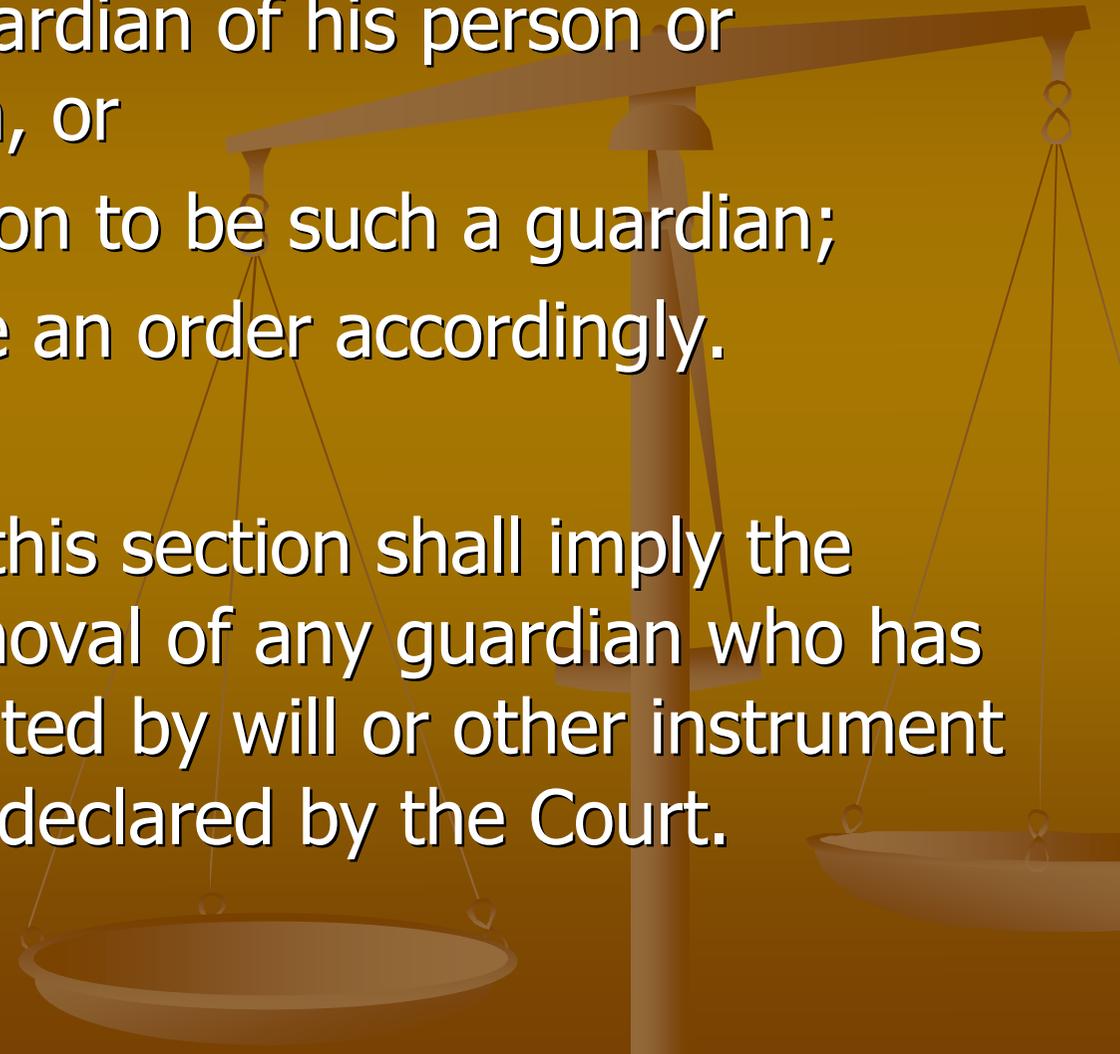


- Ward

4(iii) Ward means a Minor for whose person or property, or, both there is a Guardian.

- Power of the Court to make order as to Guardianship

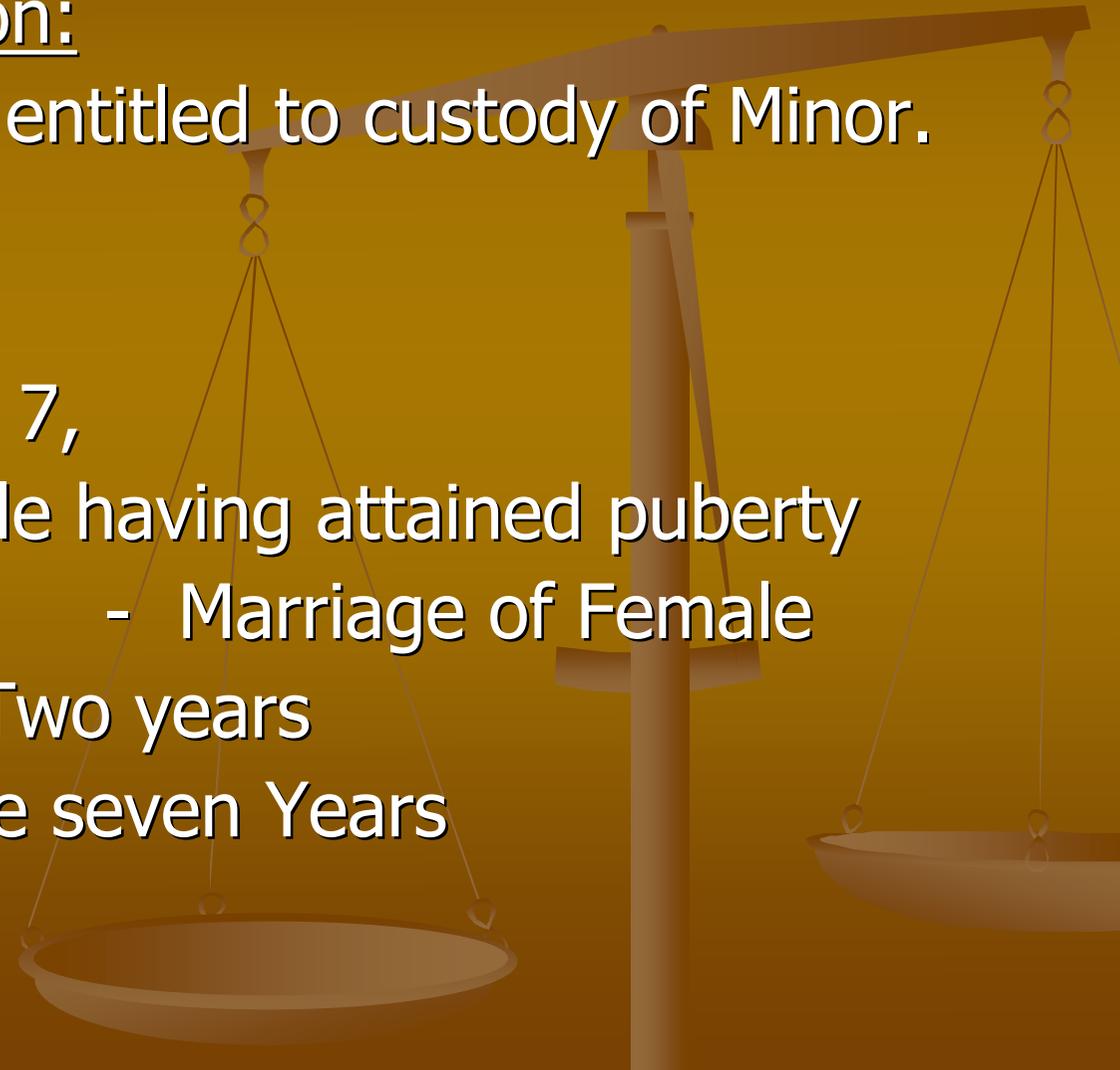
Sec.7 Where the Court is satisfied that it is for the welfare of a Minor that an order should be made,



(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.

(2) An order under this section shall imply the removal the removal of any guardian who has not been appointed by will or other instrument or appointed or declared by the Court.



- Guardian Of Person:

Ordinarily Mother is entitled to custody of Minor.

- Custody of Minor:

Hanfi Law - Male 7,

Female having attained puberty

Malki & Shafi Law - Marriage of Female

Shia Law - Male Two years

Female seven Years

# Right of other female Relations (R.ANNAS)

- Maternal Grand Mother
- Paternal Grand Mother
- Maternal Aunt
- Paternal Aunt



# Haq-i-Hizanat of male Relations

- Father
- Grand Father
- Real brother of the Father
- Nephew



# Females when disqualified for custody of Minors.

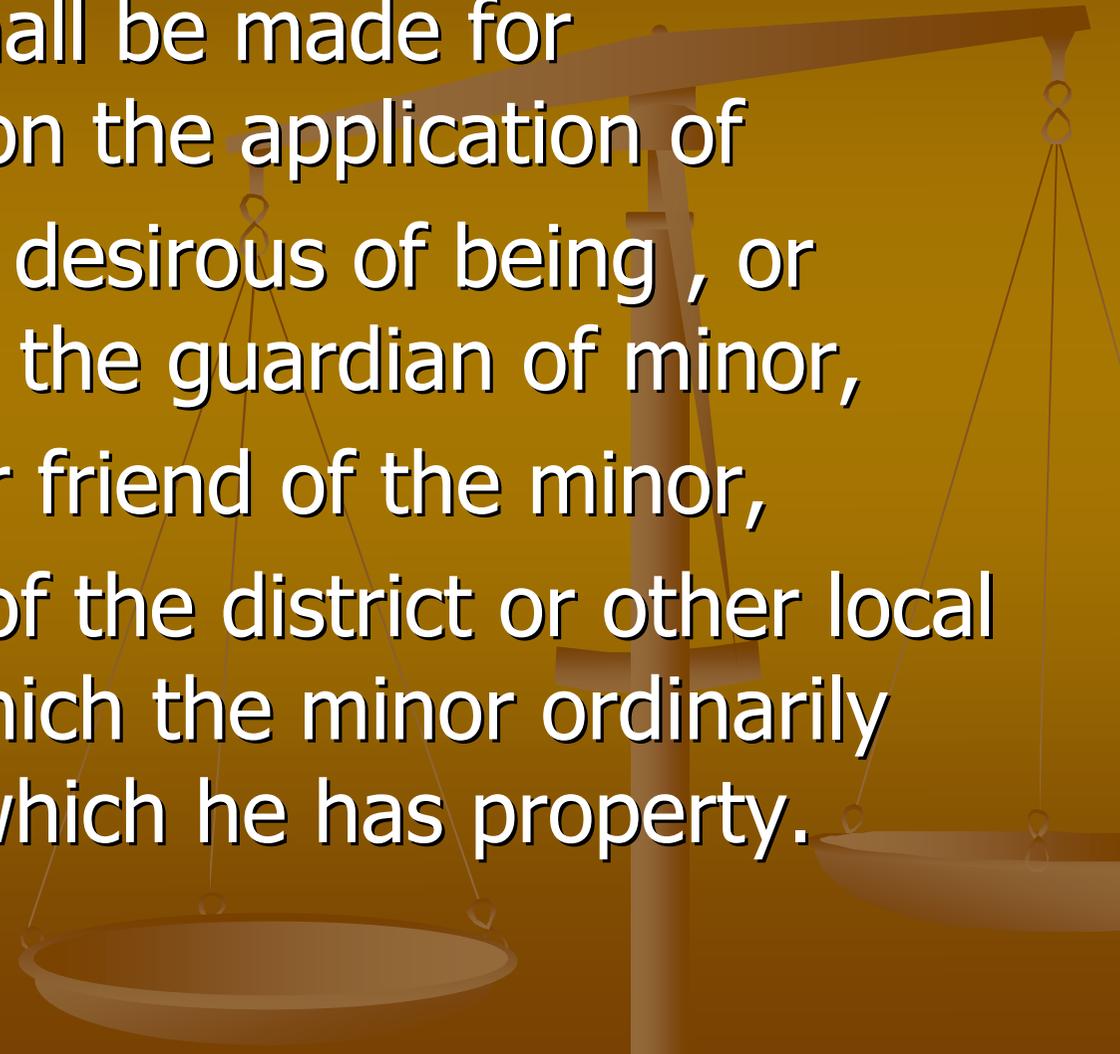
## **Mohammedan Law, Sec.354**

A female including the mother who is otherwise entitled to the custody of a child, loses the right of custody-

- (a) If she marries a person not related to the child within the prohibited degrees, A stranger, but the right revives on the dissolution of the marriage by death or divorce, or
- (b) If she goes and resides during the subsistence of the marriage at a distance from the father's place of residence or,
- (c) If she is leading an immoral life , as where she is a prostitute or,
- (d) If she neglects to take proper care of the child. Apost.

# Who is entitled to apply for Guardian

Sec.8 An order shall be made for  
guardianship on the application of

- (a) The person of desirous of being , or  
claiming to be the guardian of minor,
  - (b) Any relative or friend of the minor,
  - (c) The collector of the district or other local  
area within which the minor ordinarily  
resides or in which he has property.
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# Kinds of Guardian

- De facto Guardian
- De jure Guardian
- Testamentary Guardian
- Certificated Guardian



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

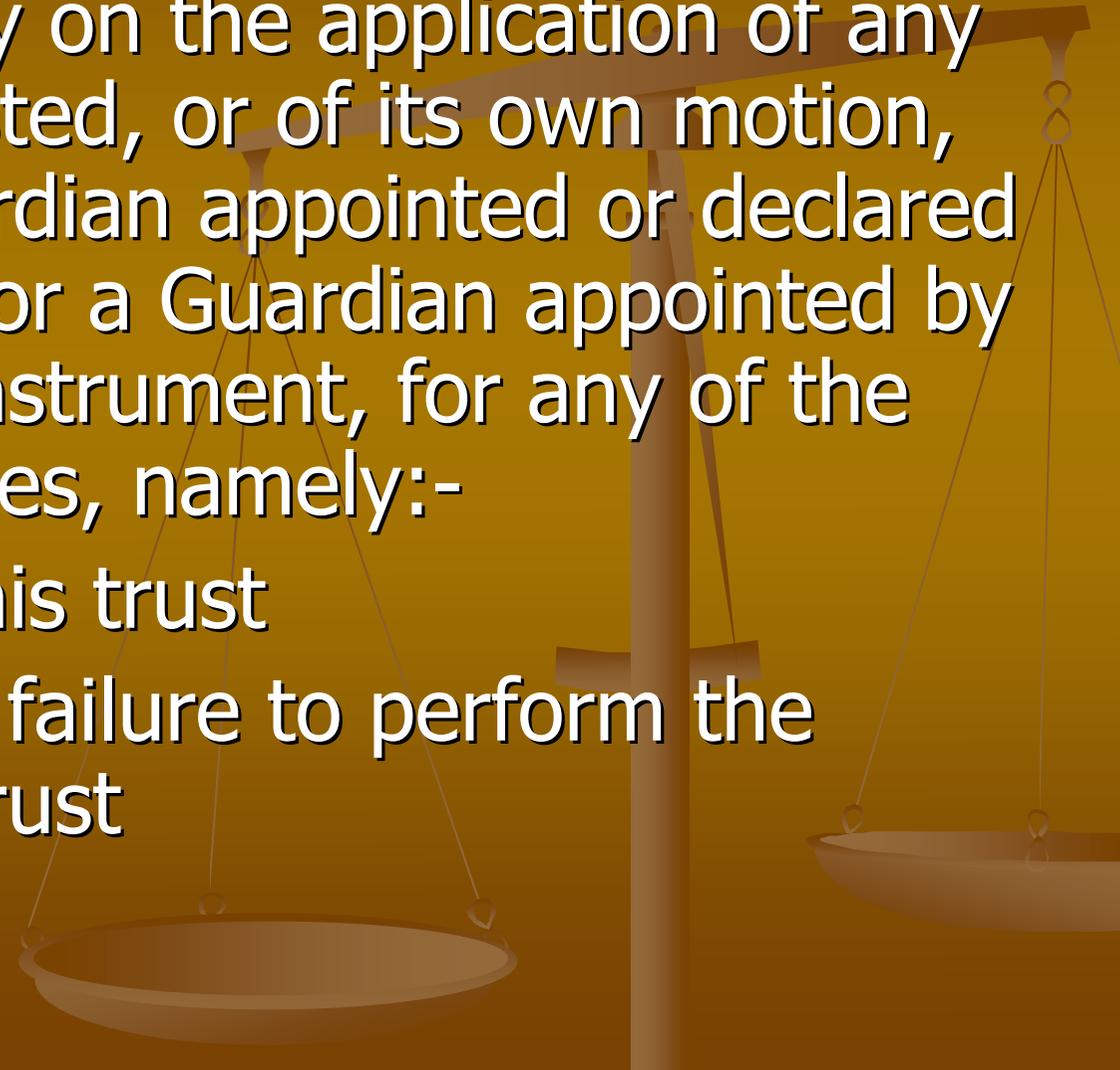
Sec.19 Nothing in this Act shall authorize the Court to appoint or declare a guardian of the person,

- (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,
- (b) Of a minor whose father is living and is not , in the opinion of the Court, unfit to be guardian of the minor,
- (c) Of a minor whose property is under the superintendence of a Court of wards competent to appoint a guardian of the person of minor.

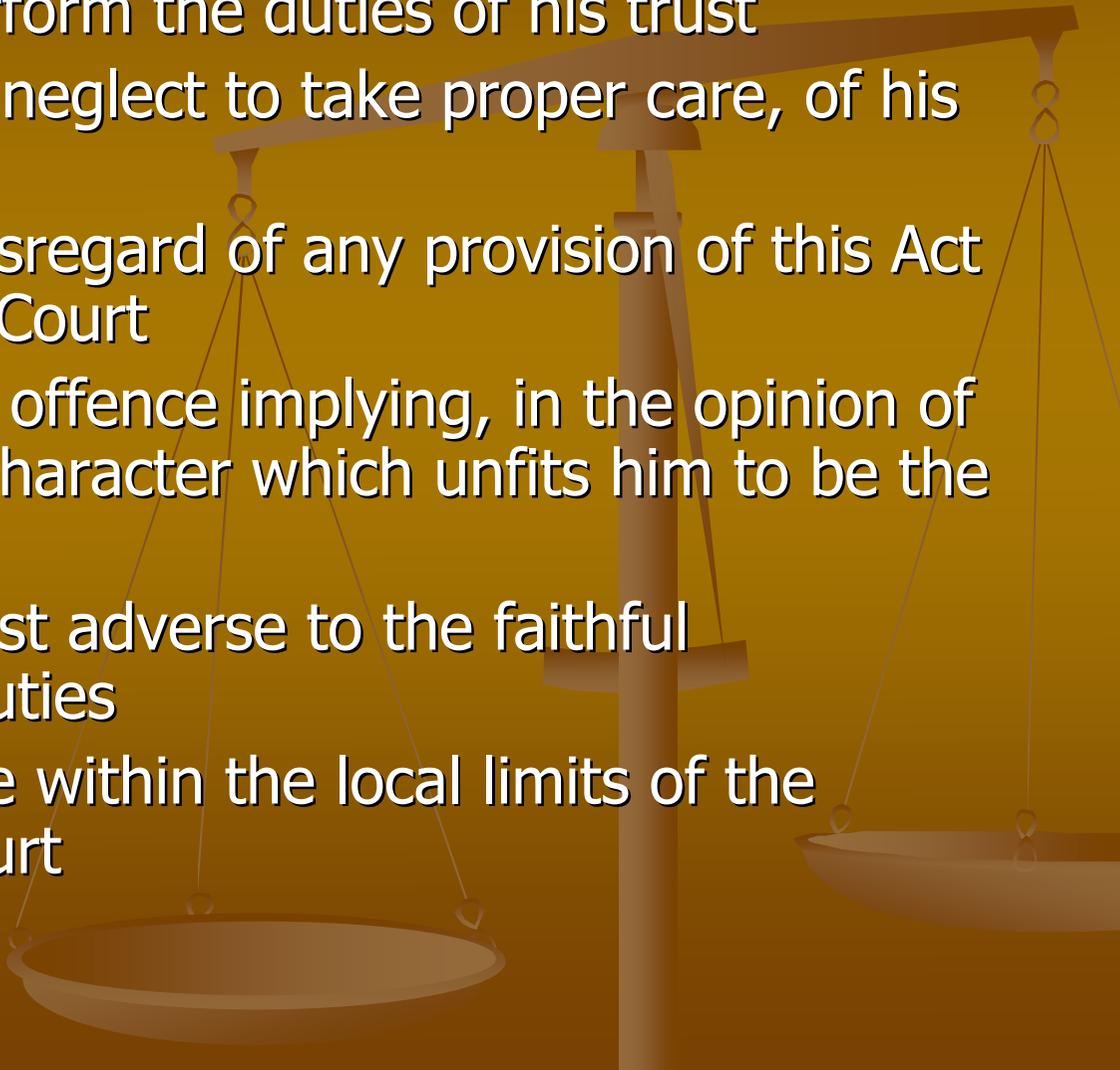
# Obligation on guardian of property appointed by the Court

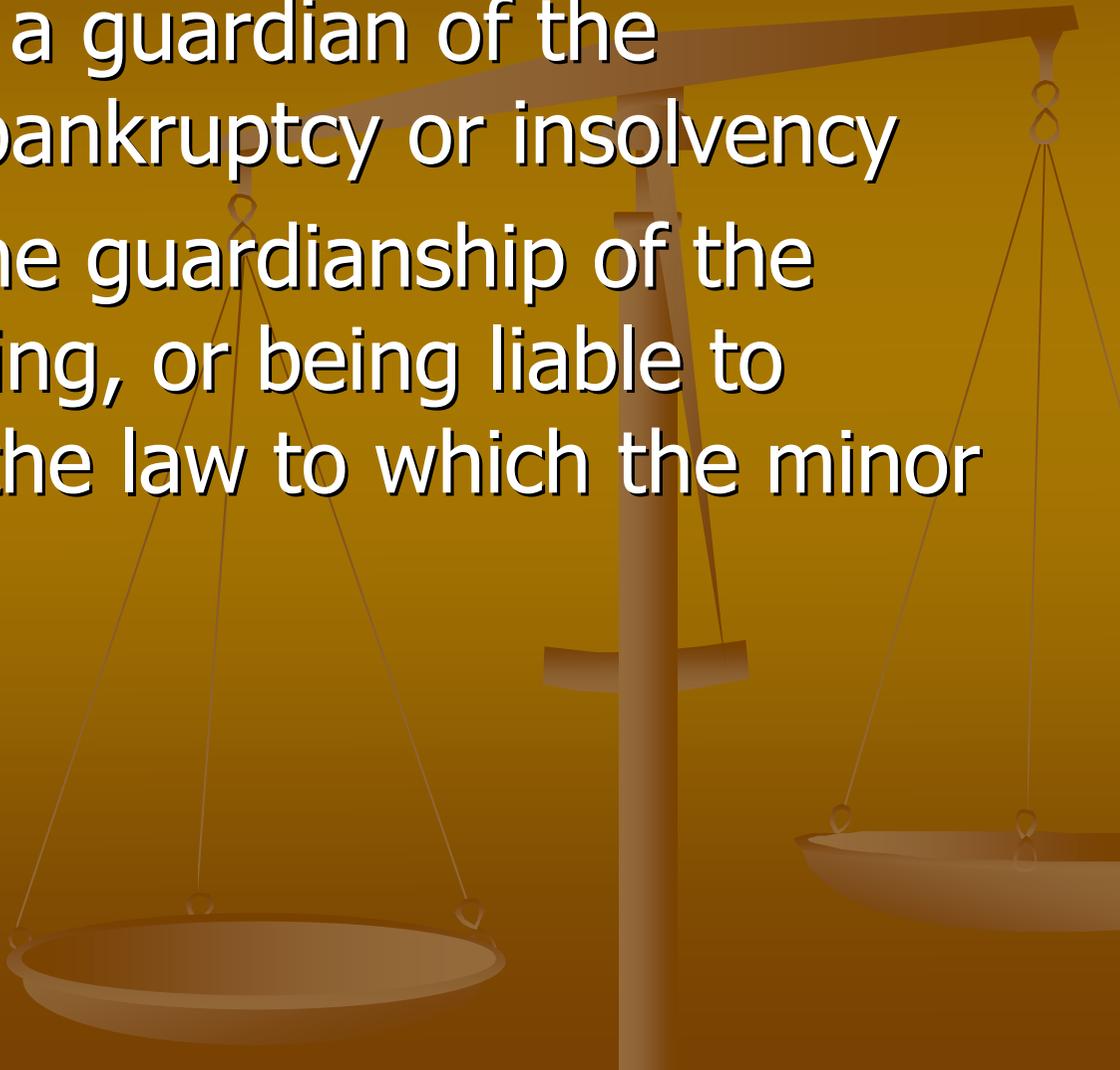
- Where a guardian of the property of a ward has been appointed or declared by the Court and such guardian is not the collector, he shall
  - (a) If so required by the Court, give a bound.
  - (b) If so required by the Court, deliver to the Court within six months from date of appointment a statement of immovable & immovable property belonging to the Ward and of the debts due from the Wart.
  - (c) if so required exhibit his accounts in the Court
  - (d) Apply for the maintenance, education and advancement of the Guardian

# Removal Of Guardian



- The Court may on the application of any person interested, or of its own motion, remove a guardian appointed or declared by the Court, or a Guardian appointed by will or other instrument, for any of the following causes, namely:-
  - (a) For abuse of his trust
  - (b) For continued failure to perform the duties of his trust

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- (c) For incapacity to perform the duties of his trust
  - (d) For ill-treatment, or neglect to take proper care, of his ward
  - (e) For contumacious disregard of any provision of this Act or of an order of the Court
  - (f) for conviction of any offence implying, in the opinion of the Court, defect of character which unfits him to be the guardian of his ward
  - (g) For having an interest adverse to the faithful performance of his duties
  - (h) For ceasing to reside within the local limits of the jurisdiction of the Court

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- (i) In the case of a guardian of the property, for bankruptcy or insolvency
  - (j) By reason of the guardianship of the guardian ceasing, or being liable to cease, under the law to which the minor is subject.