

IN THE HIGH COURT OF PUNJAB AND HARYANA, CHANDIGARH

SR.NO.242-CR-5733-2014

Decided on: 05.05.2015

MOHINDER SINGH

.....Petitioner

VS

SATPAL KAUR AND ANR

.....Respondents

CORAM HON'BLE MR. JUSTICE K.KANNAN

Present Mr.MPS Mann, Advocate for the petitioner.

Mr.NPS Mann, Advocate for respondent no.1.

K.KANNAN, J

A petition for appointment of a guardian for a party who is stated to be deaf and dumb was rejected by the Court.

The procedure adopted is erroneous. Order 32 contemplates a situation when a guardian could be appointed for a person who is mentally affected. The affectation could be in various ways. The question is whether a person who is deaf and dumb has any impairment in his faculties that will disable him from bringing an effective prosecution/defence in the trial.

The District Medical Officer, Civil Hospital Nawansahar is ordered to constitute a board comprising of a authorized psychiatrist and ENT specialist and assess his mental capabilities. Respondent no.2 will appear before the Board on the day that may be fixed by the trial Court for appearance and after examination report shall be sent by the Board indicating the mental condition of respondent no.2 and its observation of whether the person has any mental incapacity to defend himself. The Court will pass an appropriate order either appointing or rejecting the plea for a guardian.

In the event of there being no mental disability but the party will have difficulty in communication as a witness, the Court will adopt the appropriate procedure as prescribed under Section 119 of the Evidence Act for eliciting evidence of such a person by seeking for assistance through an expert who would be in a position to communicate what the deaf and dumb person wants to say in Court.

The impugned order is set aside and it is modified to the above

extent.

CR-5733-2014

-2-

The Civil revision is allowed to carry out the directions given by the Court.

05.05.2015

mamta

(K.KANNAN)

JUDGE