

**112 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**FAO No.2803 of 2015 (O&M)
Date of Decision: April 28, 2015**

Surinder Singh and others

.... Appellants

vs.

Amarjit Kaur and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. R.K. Shukla, Advocate for the appellants.

Mr. Avtar Singh Sayan, Advocate
for respondent Nos.1 to 3.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

This is an appeal filed by the appellants against the order dated 24.02.2015 passed by learned Addl. District Judge, Patiala, in a petition under Section 50 of the Mental Health Act, 1987, questioning the mental condition of Amarjit Kaur, respondent No.1.

It has been argued that Amarjit Kaur was examined by the Medical Board, which advised the opinion of Neurologist and Psychologist from other institutes but the same was not done so despite two applications filed by the appellants.

It is stated that Amarjit Kaur is mentally ill and respondent Nos.2 and 3 are grabbing her property.

In the report of Medical Board, it is reported that Amarjit Kaur is deaf as well as blind.

At this stage, Mr. Avtar Singh Syan, Advocate has put in appearance on behalf of respondent Nos.1 to 3.

It has been brought to the notice of this Court that Amarjit Kaur, who is sought to be declared as mentally insane was examined in the court as RW5. She was examined and cross-examined at length. Regarding her examination, the lower court has made the following observations:

“ As regards the mental condition of respondent Amarjit Kaur is concerned, learned counsel for the respondent examined Amarjit Kaur as RW5, who stated that she is not mentally sick nor blind and nor suffering from hard of hearing. A lengthy cross examination has been conducted by the learned counsel for the petitioner and number of questions with regard to her mental alertness have been put to her. In this regard the Court observation have also been given on some aspects. No doubt it has come on some aspects that she cannot see properly, but she is mentally alert and sound and she is able to answer all the questions put to her by the learned counsel for the petitioners. Moreover, a mentally ill person cannot depose on oath whereas she has rightly identified 50 paise coin shown to her and she also identified most of the colours shown by the learned counsel for the petitioners to her. Then what else is required to show her mental alertness, whereas learned counsel for the petitioners is asking to declare her mentally ill. As discussed above, mental ill person means a person who is in need of treatment by reason of any mental disorder other than mental retardation. In the present case in hand, when the

witness is answering all the questions of the learned counsel for the petitioner except hard of hearing and weak eye sight be cannot declared her as mentally ill person.”

When a person sought to be declared as insane, has appeared in the court and examined and cross-examined at length and her mental capacity is also tested in the court, no further opinion is required by the Medical Board. The opinion of the court is that Amarjit Kaur is not mental insane. It appears that there is a property dispute and the appellants are interested in the property of Amarjit Kaur-respondent No.1 and want to declare her mentally insane.

There are no merits in the present appeal and the same is accordingly dismissed.

April 28, 2015
sarita

(KULDIP SINGH)
JUDGE