

In the High Court of Punjab and Haryana at Chandigarh

FAO-917 of 2015(O&M)
Date of Decision: 22.9.2015

Resham Singh

---Appellant

versus

General Public

---Respondent

Coram: Hon'ble Mr. Justice Rajive Bhalla
Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Gagandeep Singh, Advocate
for the appellant

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rajive Bhalla, J.

CM No.2493-C-II of 2015

Prayer in this application is to condone delay of 113 days in filing the appeal.

For reasons stated in the application and arguments addressed, the application is allowed and delay of 113 days in filing the appeal is condoned.

FAO No. 917 of 2015

The appellant challenges order dated 8.11.2013 passed by the Civil Judge (Senior Division), Gurdaspur dismissing his petition, filed under Section 8 of the Guardian and Wards Act, 1890 (in short “the Act”) for sale of land belonging to his minor son Hardev Singh.

Counsel for the appellant submits that the minor was suffering from cancer and though he has been cured, the appellant has to meet recurring medical expenses. Counsel for the appellant further submits that the trial court has dismissed the petition by holding that the appellant should first sell his land by ignoring the fact that the appellant has already sold his share of the land. The appellant does not have any other means or land to pay the medical and other expenses of the minor.

Notice of the appeal was issued to the general public. After publication in the daily Punjab "Ajit", no objections have been filed by any person.

We have heard counsel for the appellant and perused the impugned order and the record which was made available by counsel for the appellant.

A perusal of the impugned order reveals that the learned Court below has recorded a finding that the appellant should sell his land before he prays for selling the land of the minor. A perusal of jamabandi for the years 2007-08 (Ex. P-1) reveals an endorsement, in the remarks column that the appellant had already sold his land measuring 08 kanals. The learned trial court appears to have overlooked this entry.

As the impugned order is based on an incorrect appreciation of the evidence, the appeal is allowed, the impugned order is set aside and the matter is remitted to the Civil Judge (Senior Division), Gurdaspur for deciding the petition under Section 8 of the Act afresh and in accordance with law. Liberty is granted to the appellant to produce a certified copy of the sale deed and satisfy the Court that he has no other property and/or

means and, therefore, it is imperative that he be allowed to sell the land belonging to the minor.

The appellant is directed to appear, before the Civil Judge (Senior Division), Gurdaspur on 12.10.2015 for further proceedings which shall be completed within two months of the appellant putting in appearance.

(Rajive Bhalla)
Judge

(Rekha Mittal)
Judge

22.9.2015

PARAMJIT