

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

AO NO.54/2016

12 APEAL FROM ORDER NO. 54 OF 2016

ARUN KESHAVRAO PANDE AND OTHERS
VERSUS
NIL

...
Advocate for Petitioners :Mr. Adgaonkar Ravibhushan P

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CORAM : P.R. BORA, J.
Dated: October 14, 2016

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PER COURT :-

1. The appellant has challenged the order passed by the District Court, Nanded on 28th of June, 2016, in Miscellaneous Civil Application (RJE) No.92/2015.

2. The aforesaid application was filed by the present appellant under Section 8 of the Guardians and Wards Act and Sections 52, 53 and 54 of Mental Health Act, 1987, for his appointment as a guardian of one Kum. Pramodini, daughter of Keshavrao Pande. Vide the impugned judgment, the Court below has rejected the said application observing that since Kum.Pramodini, daughter of Keshavrao Pande is admittedly major, the provisions of Guardians and Wards Act would not apply. The District Court has further observed that since said Kum.Pramodini also cannot be held to be a mentally ill person as defined under Section 2(L) of Mental Health Act, the said Act would

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also not apply in her case and for both these reasons, the District Court has rejected the said application.

3. Shri Adgaonkar, learned Counsel appearing for the appellant, though sought to canvass that the District Court has committed an error in rejecting the application and has not appropriately considered the provisions of Mental Health Act, the contentions so raised are unsustainable. Admittedly, according to the case of the appellant, Kum.Pramodini is mentally retarded and for mentally retarded persons certain different provisions are applicable. In the year 1999, a separate enactment is brought known as " the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999" wherein the provisions are made under Chapter VI thereof for appointment of guardianship of the mentally retarded persons.

4. In view of the fact that the appointment of a guardian for mentally retarded person could not have been made either under the provisions of the Guardians and Wards Act or the Mental Health Act, the learned District Judge has rightly rejected the application so filed by the present applicant seeking guardianship of a mentally retarded person. I do not see any infirmity in the impugned order. The Appeal, therefore, fails and is

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accordingly dismissed. It would be, however, open for the appellant to avail the remedy provided under the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999. No order as to costs.

(P.R. BORA, J.)

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