

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.3702 of 2016

Date of Decision.26.05.2016

Simranpreet Kaur @ Preeti

.....Petitioner

Vs.

Harbans Singh and others

.....Respondents

Present: Mr. Ashok Goel, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers 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?

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K. KANNAN J. (ORAL)

1. The revision petition is against the order of dismissal of the petition filed under Mental Health Act, 1987. The petition had been filed by the daughter against the father stating him as insane and seeking for inquisition. On the date of hearing, the Court had attempted to satisfy itself whether the person was insane or not by making questions. It is in question answer form that is reproduced as under:-

“Q. What is your name?

A. My name is Harbans Singh.

Q. What is your father's name ?

A. Gian Singh.

Q. Where you are present today?

A. I am present in Court.

Q. Are you remain ill?

A. I remain ill and getting medicine.

Q. Will you getting any medicine from any mental hospital?

A. No sir. I am getting medicine from psychiatric department as my hands are shivering.

Q. Why your hands are shivering and from how much time?

A. My hands are shivering due to age factor from 4-5 years. I am 80 years old.

Q. How much educated you are?

A. I am graduate of 1958 from Mahindra College, Patiala.

Q. Now what are you doing?

A. I am getting pension now.

Q. From which department you have retired?

A. Education Department.

Q. Where were your posting at the time of retirement?

A. I was posted in Shimla in 1994 at the time of my retirement and I was having dual charge of Patiala.

Q. Have you read the contents of the petition?

A. Yes. I have read the contents of the petition which is filed by my daughter Simranpreet Kaur for declaring me as insane. As per my knowledge no case can be instituted against insane person and concession cannot be given against insane person.

Q. How much land do you own?

A. 22 acres in village Ajrawar, Tehsil Rajpura, District Patiala.

Q. Can you read contents of copy of the petition?

A. Yes. (Harbans Singh read over the first paragraph of the petition without any hesitation and regularly).

Q. What is the colour of small turban worn by you?

A. Kesari (saffron).

Q. Whether you have cordial relations with petitioner Simranpreet Kaur?

A. No.”

2. The Court has proceeded to observe that he found him to be fully capable of understanding matters and there was no necessity for ordering an inquisition or directing him to inquisition regarding his mental health by referring him to a medical board. It is against this order that the revision petition is filed.

3. Section 50 of the Mental Health Act allows for application for judicial inquisition to be filed by relative. There is no doubt in the fact that the petitioner is the daughter and it was competent to file the petition. On

such petition being filed, Section 50(2) of the Act details the procedure that the Court will undertake. Section 50(2) allows for examination by the District Judge itself or any person whom how the District Court may call for report concerning the mentally ill person. This Section, therefore, contemplates any enquiry by the court itself and it is also competent to refer the concerned person to any other person to bring a report. The Court has undertaken what was possible for it to do and has posed questions to defendant No.1-Harbans Singh and has found him to be fully possessed of faculties. It is in the subjective satisfaction of the Court that the issue of whether a person could be sent for further examination or not. The power is put in the hands of District Judge under the Act only because the Act proposes it as an important exercise to be vested in the hands of a reasonably senior judicial officer.

4. The objection taken by the petitioner before this Court is that the father of the petitioner has answered the question wrongly that he had retired from Shimla when he actually retired from Patiala. I have no information before me to say that this answer was wrong and that he was disoriented to the place where he had retired from. The counsel refers to me judgments of the Supreme Court, and decision of the Madras High Court in *Sharda Vs. Dharmpal AIR 2003 SC 3450* and *A.S. Mohammad Ibrahim Ummal alias Shahul Hameed Ummal of unsound mind by next friend M.T.S. Mohammad Thambi Vs. Shaik Mohammad Marakayar and another AIR (36) 1949 Madras 292.* These decisions are referred to the nature of inquisition which the Court will allow for proceedings under Order 32 Rule 15 CPC. In one of the judgments, apart from making a reference to Mental Health Act, there is nothing brought out in the said

decisions which will make me take a different view. I have already pointed out that Section 50(2) of the Mental Health Act makes possible the enquiry to be conducted by the District Judge himself without calling for any report. If he was of the view that it was the best manner of investigation which could get the matter decided at the preliminary level, I do not think the order to be illegal for interference in revision petition.

5. There is also a frail attempt on the part of the counsel to state that there are prescriptions which show that he was being treated for mental illness. I have gone through the prescriptions. There is nothing brought out from any file to suggest that he was mentally ill and that he was being treated as mentally ill. Without any medical certification of the person as having been treated for mental illness, I am afraid I may not be able to interfere with the order already passed.

6. This decision must be taken as concluding the issue of what was brought before the Court at the particular time and will not foreclose any other application or any other petition at an appropriate time when there is proof of some mental illness of the petitioner's father which would require an adjudication for appointment of a manager under the Act in the manner contemplated under the provisions. The revision petition is dismissed.

(K. KANNAN)
JUDGE

May 26, 2016
Pankaj*