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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO(OS) 631/2015**

**SUDERSHAN KRISHNAMURHTY
(DECEASED) THR GUARDIANS**

..... Appellant

Represented by: **Mr.Vijay Kumar,
Mr.K.S.Kashyap, Advs.**

versus

STATE (DELHI ADMINISTRATION) & ORS Respondent

Represented by: **Mr.Kumar Rajesh Singh, Advs.
for R-2&3.
Mr.Ravindra Kumar, Adv. for
R-4&5.
Mr.Rahul Sharma, Ms.Nishtha,
Advs. for R-8/ Standard
Chartered Bank.**

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

30.03.2016

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1. Mahesh Vijayagopal, the son of the elder brother of late Shri B.S.Krishnamurthy, filed CS(OS) No.1546/2011 pleading therein that Ms.Sudershan Krishnamurthy W/o late Shri B.S.Krishnamurthy was incapable of managing her estate due to age and ill-health. He prayed to be appointed as her guardian to manage her estate.

2. Late Sudershan Krishnamurthy was admitted in Apollo hospital since March 09, 2011. Unfortunately the lady went into a vegetative state. Liquid assets were liquidated to pay the bills of the hospital and by August 26, 2015

bill of Apollo hospital swelled to ₹1.5 crores.

3. On August 26, 2015, the learned Single Judge permitted Mahesh Vijayagopal to sell Flat No.308, Ansal Bhawan, Tolstoy Marg, New Delhi belonging to Ms.Sudershan Krishnamurthy. It was directed that while affecting the sale defendant No.5 in the suit (Harish Pal Bhasin), brother of Ms.Sudershan Krishnamurthy, would be associated. Court Commissioner was appointed.

4. Before the sale could be affected, Sudershan Krishnamurthy expired on September 17, 2015. IA No.21652/2015 was filed praying that order dated August 26, 2015 be modified.

5. The said application was disposed of vide impugned order dated October 13, 2015. The learned Single Judge opined that once Sudershan Krishnamurthy expired the question of any person being appointed as her guardian or continuing to act as her guardian did not arise. The learned Single Judge opined that concerning the estate of the deceased, which would include liabilities to be discharged, appropriate legal proceedings have to be taken. Though not recorded in the order, it means that if the deceased had executed a will, probate thereof has to be sought and by way of an interim measure an Administrator of the estate could be prayed to be appointed. If it is a case of intestacy, letter of administration could be applied for.

6. We concur with the view taken by the learned Single Judge and would advise the parties, who seem not to be at variance with each other concerning liquidation of such part of the estate of the deceased as would be warranted to clear the hospital bills to immediately take steps as suggested by the learned Single Judge.

7. It is trite that once an infirm person dies, no person is entitled to act as

the guardian of the person. Devolution of interest takes place by law immediately on the death. Those who inherit the estate would be liable to liquidate the estate to clear the dues of the parties. It is trite that inheritance of an estate is liability to clear the debts by sale of the estate.

8. The appeal is dismissed.

9. No cost.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

MARCH 30, 2016
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