

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.365 of 2017

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Harishchandra Narayan, Son of Late Lal Bahadur Singh, resident of Flat No. 303, Manakan Kulharia House, above Bazar India Mall, adjacent to B.N. College, P.S.- Pirbahore, District- Patna. Appellant.

Versus

1. Ayodhya Prasad Singh, Son of Late Lal Bahadur Singh, resident of Village + P.O. Vasantpur, P.S.- Muffasil (Ara), District- Bhojpur.
2. Seeta Devi, Wife of Shio Mangal Singh aged about 60 years, permanent resident of Village + P.O.- Chota Sasaram, P.S.- Udwanthnagar, District- Bhojpur (Ara), presently residing at House of Vinod Kumar, r/o Nalanda Colony, behind Suman Kashyap Apartment, P.S.- Kankarbagh, District- Patna.
3. Meera Devi, Wife of Late Harendra Singh, resident of Village- Dhruptola, P.S. Krishna Garh, District- Bhojpur at Ara.
4. M/s Reel Life Entertainment (I) Pvt. Ltd., through its authorised signatory and having its office at Aster, Building No. 5, Flat No. 101, New MHADA complex, Oshiwara, Mumbai- 400053.

.... Respondents.

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Appearance :

For the Appellant : M/s Siddhartha Prasad, Sanchay
Srivastava and Kaustubh, Advocates.
For the Respondent nos.1&2 : Mr. Ravi Prakash and Mr. Ashish Kumar, Advocates.
For the respondent no.4 : Mr. Subodh Kumar Jha, Adv.
Mr. Pranav Kumar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL
ORAL JUDGMENT

Date: 24-08-2017

Heard learned counsel for the appellant and learned
counsel for the respondents.

2. This miscellaneous appeal has been preferred against the order dated 24.03.2017 passed by the learned 1st Additional District Judge, Patna in Guardianship Case No.16 of 2016, whereby the learned Lower Court has allowed the intervention petition of respondent no.4-M/s Reel Life Entertainment (I) Private Limited.

3. The factual matrix of the case is that the



appellant filed a petition under Section 53 and 54 of the Mental Health Act, 1987 to appoint him guardian of the person and personality of Mr. Vashishtha Narayan Singh, claiming him to be of unsound mind suffering from chronic Schizophrenia making respondent nos.1 to 3 and mother of Mr. Vashishtha Narayan Singh as opposite parties in the case. All the opposite parties put their appearance in the case and filed their no objections in favour of the appellant and also deposed in support of their no objection filed in the Court barring the mother of Mr. Vashishtha Narayan Singh. During pendency of the case, respondent no.4-M/s Reel Life Entertainment (I) Private Limited filed an intervention petition to make him party in the case on the ground that Mr. Vashishtha Narayan Singh, his mother, Smt. Lahaso Devi, brother Ayodhya Prasad Singh and nephew, Rakesh Kumar Singh have entered into a registered agreement with him, giving right to make a film on the life story of Mr. Vashishtha Narayan Singh. As the appellant has claimed to be appointed as guardian of person and personality of Mr. Vashishtha Narayan Singh as well so the respondent no.4 has every right to get himself impleaded in the case to save its right.

4. After hearing the parties and perusing the record, learned lower Court allowed the aforesaid intervention



petition of respondent no.4 observing that if the applicant is appointed as guardian of personality of Mr. Vashishtha Narayan Singh, the agreement signed by the respondents with the intervener will be affected as the production of film started by him on life of Vashishtha Narayan Singh will be jeopardized. The intervener has therefore every right to intervene in the proceeding and put forward his case before the Court.

5. Being aggrieved and dissatisfied with the aforesaid order, the applicant has filed the present miscellaneous appeal.

6. It is submitted by learned counsel for the appellant that admittedly Mr. Vashishtha Narayan Singh was insane and of unsound mind as he was afflicted with Schizophrenia and in the agreement itself instead of putting signature, he has put his L.T.I., which also indicates that Mr. Vashishtha Narayan Singh was not in a position to sign the agreement. Hence, the agreement made with the person of an unsound mind is *void-ab-initio* and the respondent no.4 cannot press his claim on the basis of the said void agreement. It is further submitted by learned counsel for the appellant that the appellant has filed petition in the learned Lower Court simply to appoint him as guardian of the person and personality of Mr.



Vashishtha Narayan Singh. The respondent no.4 has no *locus standi* to be impleaded as party in the aforesaid case because it neither happens necessary nor proper party in the case and his presence in the case is not necessary for proper and final adjudication of the case. It is further submitted that respondent no.4 has not claimed himself to be the guardian of Mr. Vashishtha Narayan Singh. It has simply claimed its right only on the basis void agreement so the respondent no.4 cannot be made as a party in the case. If the respondent no.4 has any grievance against the appointment of guardian of Mr. Vashishtha Narayan Singh, he may take recourse of the proper forum on the basis of the said agreement.

7. On the other hand, it is submitted by learned counsel for the respondent no.4 that by virtue of the aforesaid registered agreement, it has acquired interest in the personality right of Mr. Vashishtha Narayan Singh and in his absence the issue of appointment of guardian for the personality of Mr. Vashishtha Narayan Singh cannot be decided effectively and properly, so he happens to be necessary and proper party in the case.

8. Learned counsel for the respondent nos.1 to 3 has submitted that the agreement is *void-ab-initio* as it has been



entered by the person of unsound mind i.e. Mr. Vashishtha Narayan Singh and moreover the said agreement has been terminated and the agreement amount has been returned to respondent no.4 by them.

9. From perusal of the record, it appears that the appellant, who happens to be the one of the brothers of Mr. Vashishtha Narayan Singh, has filed a petition under Section 53 & 54 of the Mental Health Act, 1987 for appointment of guardian of Mr. Vashishtha Narayan Singh claiming him to be the person of unsound mind being afflicted with the Schizophrenia. During the pendency of the said petition, respondent no.4 filed an intervenor petition for impleading him as party in the case claiming that Mr. Vashishtha Narayan Singh and his family members have entered into a registered agreement with it for making a film on the life story of Mr. Vashishtha Narayan Singh. Thus, the personality right has been created in favour of respondent no.4 by the said agreement and as the petition has been filed for appointment of appellant as guardian of person and personality both of Mr. Vashishtha Narayan Singh, it happens to be necessary and proper party to the case.

10. As the case has been filed by the appellant only for the appointment of guardian of the person and



personality of Mr. Vashishtha Narayan Singh, hence the only point to be considered in the said case is, who happens to be the guardian of Mr. Vashishtha Narayan Singh and in whose care the interest of Mr. Vashishtha Narayan Singh is saved. Respondent no.4 does not claim itself to be the guardian of Mr. Vashishtha Narayan Singh rather has claimed to have acquired interest in the personality right of Mr. Vashishtha Narayan Singh by the registered agreement and to save the aforesaid interest in the personality right he intends to be impleaded as a party in the aforesaid case. The Hon'ble Apex Court in **Ramesh Hirachand Kundanmal Vs. Municipal Corporation of Greater Bombay and others** reported in **(1992) 2 SCR at Page 1** has been pleased to rule that necessary party is one without whom no order can be made effectively and proper party is one in whose absence effective order can be made but whose presence is necessary for complete and final decision on question involved in proceedings. Addition of parties is not the question of initial jurisdiction of the Court but of judicial discretion which has to be exercised in view of all facts and circumstances of particular case.

11. In my considered opinion, as this case has been filed for appointment of guardian of Mr. Vashishtha Narayan Singh, the presence of respondent no.4 for deciding the aforesaid



guardianship case is not necessary as even in his absence the question in issue can be decided effectively, adjudicatively and finally as respondent no.4 does not happen to be guardian of Mr. Vashishtha Narayan Singh. He does not happen to be either necessary or proper party in the case. If there is any violation of any terms and conditions of the said agreement, he may take recourse of the proper forum.

12. In the above facts and circumstances of the case, the impugned order passed by the learned lower Court is set aside and this appeal is allowed. The learned lower Court is directed to dispose of the aforesaid guardianship petition as per provisions of Section 53 and 54 of the Mental Health Act, 1987.

(Prakash Chandra Jaiswal, J.)

Trivedi/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	30.08.2017
Transmission Date	NA

