

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8039 OF 2017

(Smt. Sultanabi w/o Salim Shaikh Vs. The State of
Maharashtra and another)

Mr.S.A. Deshmukh, Advocate holding for Mr.Mukund S.
Patil, Advocate for the petitioner

CORAM : SANGITRAO S. PATIL, J.

DATE : 29th JUNE, 2017

ORAL ORDER :

Heard the learned counsel for the petitioner
and the learned A.G.P. for the respondents.

2. The learned District Judge-4, Osmanabad rejected Misc. Application No. 170 of 2013, filed by the petitioner for appointment of Legal Guardian under Section 10 (1) (j) of the Guardians and Wards Act, 1890 for one Salim Mohammad Akbar Siddiqui (hereinafter referred to as "Salim Siddiqui"), who is the husband of the petitioner.

3. The learned counsel for the petitioner submits that as per the letter dated 10th May, 2013, issued by respondent No. 2, for receiving the pensionary benefits of the deceased Mohammad Akbar Mohammad Siddiqui, who was the father of Salim Siddiqui, a certificate of legal guardianship is required to be produced. The said Salim

Siddiqui is visually impaired since his birth. Therefore, the petitioner filed the above numbered Misc. Application for appointment of legal guardian for Salim Siddiqui.

4. The application came to be rejected on the ground that Salim Siddiqui is major. Therefore, the provisions of Section 10 (1) (j) of the Guardians and Wards Act are not at all applicable for appointing legal guardian for him.

5. The learned A.G.P. submits that only because Salim Siddiqui is visually impaired, the guardian is not required to be appointed on his behalf since he is able to look after his person and property. He supports the impugned order.

6. The learned District Judge has quoted the provisions of Section 7 of the Guardians and Wards Act, which empower the Court, on being satisfied that it is for the welfare of a minor, to make an order appointing a guardian of his property or person, or both. The learned District Judge rightly observed that since Salim Siddiqui is not a minor, the provisions of Section 7 cannot be invoked for appointing a guardian for him.

7. Since Salim Siddiqui is simply a visually impaired person and not a person of unsound mind, neither the provisions of Section 7 of the Guardians and Wards Act, 1890, nor that of Order-XXXII of the Code of Civil Procedure would be applicable. It is common knowledge that there are a number of visually impaired persons who not only take care of themselves but do some businesses and render services also. Consequently, there was no question of appointing any guardian for Salim Siddiqui. The learned District Judge has rightly rejected the application. I do not find any reason to interfere with the impugned order.

8. The petitioner would be at liberty to point out to respondent No. 2 that Salim Siddiqui, being a person of sound mind, need not appoint any legal guardian and the pension case of the deceased Mohammad Akbar Mohammad Siddiqui can be processed without appointment of any guardian for Salim Siddiqui. With these observations, the Writ Petition is dismissed. No costs.

[SANGITRAO S. PATIL]
JUDGE