

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.4888 of 2016
Date of Decision: 26.07.2017

Sarabjeet Kaur
Vs
Iqbal Singh

.....Petitioner

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Rajbir Singh, Advocate
for the petitioner.

Mr. Angreze Dhindsa, Advocate
for respondent.

RAJ MOHAN SINGH, J.(Oral)

On 18.07.2017, following order was passed:-

“Application under Section 25 of the Guardians and Wards Act, 1890 filed by the respondent was accepted by the Civil Judge (Senior Division), Sangrur vide order dated 16.09.2015 while exercising the powers of Guardian Judge under the Guardians and Wards Act, 1890. Against the said order, an appeal was filed before the Additional District Judge, Sangrur. The order dated 16.09.2015 passed by the Civil Judge (Senior Division), Sangrur was upheld by the Additional District Judge, Sangrur vide order dated 18.03.2016. The present revision petition has been filed by the wife/petitioner under Article 227 of the Constitution of India against both the aforesaid orders.

At the time of notice of motion, following order was passed on 02.08.2016:-

“Counsel for the petitioner inter alia contends

that though the appeal against the order passed by the guardian Judge was preferred by the petitioner but as the District Judge is not competent to decide the appeal against the judgment/order passed by the guardian Judge exercising the delegated power of the District Judge, the judgment passed by the Additional District Judge, Sangrur, affirming the judgment passed by the guardian Judge being without jurisdiction is liable to be set aside. Notice of motion for 28.11.2016. In the meantime, operation of the impugned order shall remain stayed.”

In view of Section 47(c) of the Guardians and Wards Act, 1890, the order passed under Section 25 of the Act whether granting or refusing the application is appealable and the appeal lies to the High Court. Learned counsel for the petitioner seeks time to convince this Court that if the order under Section 25 of the Act is passed by the Civil Judge (Senior Division) exercising the powers of Guardian Judge, then the appeal lies to the Court of District Judge. Adjourned to 26.07.2017.”

The case was adjourned at the instance of the petitioner to enable him to satisfy the Court that the order passed under Section 25 of the Guardians and Wards Act, 1890 is not appealable.

During course of arguments, learned counsel for the

petitioner could not bring any such precedent vide which it can be gathered that the order passed under Section 25 of the Act is not appealable under Section 47(c) of the Guardians and Wards Act, 1890.

In view of above, no interference in the present revision petition is called for, however, petitioner may take recourse to the lawful remedies available to her.

Dismissed.

July 26, 2017.

Prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No