

**LPA no. 1609 of 2017 (O&M)
and connected case**

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1. LPA no. 1609 of 2017 (O&M)

Pawandeep Singh

....Appellant(s)

Versus

Ravinder Karas and others

...Respondent(s)

2. LPA no. 1604 of 2017 (O&M)

Manisha Kumari

....Appellant(s)

Versus

Ravinder Karas and others

...Respondent(s)

Date of Decision :31.08.2017

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE RAJ SHEKHAR ATTRI**

Present : Mr.Jai Vir Yadav, Advocate for the appellant
in LPA no. 1609 of 2017

Ms. Divya Mahlawat, Advocate for appellant
in LPA no. 1604 of 2017

MAHESH GROVER, J.(ORAL)

This order will dispose of two Letters Patent Appeals bearing
LPA nos. 1609 and 1604 of 2017 arising out of a common judgment dated
21.8.2017.

be referred to briefly. One Har Bhajan Singh Rana (hereinafter referred to as 'HR') for the sake of clarity of the learned Single Judge's judgment, married to Harinder Kaur Rana, was blessed with two children namely, Ravinder Karas wife of Eric Karas and Kawal Deep Singh Rana. The son pre-deceased HR in 1989 and his wife Harinder Kaur Rana on 4.10.2012 leaving the daughter Ravinder Karas as the sole surviving heir. HR is a qualified Engineer who worked in United Kingdom for a considerable time before settling in Scotland. He is presently 90 years of age and came to India in 1993 to spend some time whereafter he moved to Karnal where he suffered a massive cerebral hemorrhage and remained unconscious, resulting in treatment in various hospitals. The daughter was apprised of his ailment and she came to India on 9.9.2016 to look after her ailing father. She is a Doctrate in Psychology and is working as Director of Psychological Therapies for East London NHS Foundation Trust in London. Due to her professional commitments, she returned to London on 7.10.2016. In the meantime, doctors attending to Sh. Rana (HR) certified that he is not in a condition to take decision about his personal or financial matters and required constant medical care and hospitalization. The hospital authorities further advised the writ petitioner (daughter of HR) to take the petitioner to England for better treatment as also for the sake of convenience as she herself is there. On 22.10.2016 HR was taken to England in the company of one attendant namely , Dr. Sumit Mediratta, Consultant Neuro Surgery and expenditure of 6100 pounds was incurred in the process. HR was admitted to hospital in England and is being treated there. On 3.11.2016 the Deprivation of Liberty Safeguards, Safeguarding

Adults Unit, Islington Council, after assessing HR's mental condition appointed the writ petitioner (daughter of HR) to act as his representative. A detailed order was passed by United Kingdom giving the authority to HR's daughter to administer his estate. For the sake of narrating, we may extract the order of the Court of Protection Mental Capacity Act, 2005, herebelow, even though it has been extracted in the impugned judgment as well:-

**“COURT OF PROTECTION
MENTAL CAPACITY ACT 2005**

**In the matter of
HAR BHAJAN SINGH RANA
ORDER APPOINTING DEPUTY FOR
PROPERTY AND AFFAIRS**

made by N. Davies, an authorised officer of the court at First Avenue House, 42- 49 High Holborn, London, WC1V 6 NP on 6th March 2017

UPON the court being satisfied that Har Bhajan Singh Rana lacks capacity to make various decisions for himself in relation to a matter or matters concerning his property and affairs, and that the purpose for which this order is needed cannot be as effectively achieved in a way that is less restrictive of his rights and freedom of action.

AND UPON the court being satisfied that Har Bhajan Singh Rana's interests and position can be properly secured without being joined to these proceedings and without making any further direction concerning Har Bhajan Singh Rana's participation in these proceedings.

IT IS ORDERED that :

1. Appointment of deputy

(a) Ravinder Kaur Karas of 29 Tavistock Terrace, London N194BZ is appointed as deputy (“the deputy”) to make decisions on behalf of Har Bhajan Singh Rana that he is unable to make for himself in relation to his property and affairs, subject to any conditions or restrictions set out in this order.

(b) The appointment will last until further order.

(c) The deputy must apply the principles set out in section 1 of the Mental Capacity Act 2005 (“the Act”) and have regard to the guidance in the Code of Practice to the Act.

2. Authority of deputy

(a) The court confers general authority on the deputy to take possession or control of the property and affairs of Har Bhajan Singh Rana and to exercise the same powers of management and investment, including selling and letting property, as he has as beneficial owner, subject to the terms and conditions set out in this order.

(b) The deputy cannot purchase any freehold or leasehold property on Har Bhajan Singh Rana's behalf without obtaining further authority from the court.

(c) The deputy may (without obtaining any further authority from the court) dispose of Har Bhajan Singh Rana's money or property by way of gift to any charity to which he made, or might have been expected to make, such gifts, and, on customary occasions, to persons who are related to or connected with him, provided that the value of each such gift is not unreasonable having regard to all the circumstances and, in particular, the size of his estate.

3. Reports

(a) The deputy is required to keep statements, vouchers, receipts and other financial records.

(b) The deputy must submit a report to the Public Guardian as and when required.

4. Costs and expenses

The deputy is entitled to be reimbursed for reasonable expenses incurred provided they are in proportion to the size of Har Bhajan Singh Rana's estate and the functions performed by the deputy.

5. Security

(a) The deputy is required forthwith to obtain and

maintain security in the sum of £1,50,000 in accordance with the standard requirements as to the giving of security.

(b) The deputy must ensure that the level of security ordered by the court is in place before discharging any of the functions conferred by this order.

6. Notification

The deputy must, within 14 days of service of this order by the court, notify Har Bhajan Singh Rana personally that the court has made a decision by providing him with a notice of proceedings about you in the Court of Protection (form COP14) and a copy of this order. The requirement for the person providing notification to provide evidence of such notification is dispensed with.

7. Right to apply for reconsideration of order

Any person who is affected by this order may apply to the court of reconsideration of the order within 21 days of the order being served by filing an application notice (form COP9) in accordance with Part 10 of the Court of Protection Rules 2007.”

This Ravinder Karas - writ petitioner gave the particulars of the various assets possessed by her ailing father and prayed that she be permitted to take that amount in order to meet the expenses of her ailing father which are considerable. The writ Court accepted the plea which is now cause of grievance to the appellants namely Pawan Deep Singh and Manisha Kumari.

Before we proceed with the matter, we questioned the appellants about their locus to even object to the course adopted by the writ Court while accepting the writ petition of the writ petitioner.

Appellant-Pawan Deep Singh in LPA no. 1609 of 2017 is a

distant relation of the maternal uncle of the ailing HR while appellant- Manisha Kumari in LPA no. 1604 of 2017 pleaded that she has been appointed as an Administrator through a Will executed by HR.

We are of the opinion that both the appellants have absolutely no locus to raise these issues and claim to the assets of the ailing HR or even object to the daughter's efforts to claim the liquid assets of HR. Pawandeep (appellant in LPA no. 1609 of 2017) is a distant relation as distinct from the daughter who is class 1 heir and entitled to lay a claim to the assets of HR. It is not in dispute that HR is ailing and now in England being taken care of by the daughter and admitted to a hospital. The order of the authorities in England appointing the daughter of ailing HR as his Administrator (Deputy) indicates that HR is in protection of Court specially empowered in the Mental Capacity Act of 2005. We thus have little hesitation to understand that the ailing HR is under an institutional care for which the daughter i.e writ petitioner would require sufficient finances. Even otherwise, she being the Class 1 heir would clearly have access to her father's assets and the appellant (Pawandeep Singh) being a distant relative cannot be permitted to obstruct such a course. Likewise, appellant- Manisha Kumari is merely a Chartered Accountant who claims to be appointed as an Administrator pursuant to a Will. We do not want to comment on the veracity of the Will but suffice it to say as on today when the testator being alive, the executor would have no authority to object to any other course as her role would begin only after death of HR. There is nothing to show that she has been appointed as care taker during the lifetime of HR.

For the aforesaid reasons, we are not inclined to interfere in the findings recorded by the learned Single Judge.

Hence, instant appeals alongwith misc. applications are hereby dismissed.

(Mahesh Grover)
Judge

31.08.2017
rekha

(Raj Shekhar Attri)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No