

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7472 OF 2018

Nitin Keshav Kad

...Petitioner

Versus

Lata Nitin Kad

...Respondent

Mr. V. B. Tapkir, for the Petitioner.

Mr. Chetan Shah, for the Respondent.

CORAM: M. S. SONAK, J

DATED: 18th December, 2018

PC:-

1. Heard Mr. Tapkir, for the petitioner and Mr. Shah for the respondent.
2. The challenge in this petition is to the order dated 29th September, 2017 by which the learned Trial Court has rejected the petitioners application to refer the respondent to the Sasoon Hospital for medical examination. It is the case of the petitioner that the respondent is mentally challenged and this fact can be ascertained by reference to Sasoon Hospital.
3. The record indicates that the similar application was made earlier in the same proceeding and the same was rejected by the learned Trial Court. On account of such rejection, no further proceedings were taken out by the petitioner. However, the petitioner applied to the learned Trial Court that the respondent's father be appointed as her guardian again on the ground that the respondent was mentally challenged. This

request was also dismissed by the learned Trial Court. The petitioner challenged this by instituting Writ Petition No.1886 of 2016. This Court upheld the order made by the Trial Court.

4. Taking into consideration the aforesaid circumstances, the petitioner was obviously not entitled once again make the very same application before the learned Trial Court. The learned Trial Court has quite correctly rejected such application by impugned order dated 29th September, 2017. There is no error much less in jurisdictional error in the impugned order.

5. The petitioner, who is present in the Court makes a statement that he has cleared most of the arrears of maintenance and that as on date an amount of hardly Rs.50,000/- may be due. He states that even this amount will be cleared at least by 15th January, 2019, if such amount is indeed found to be due and payable. These statements are accepted. The learned Trial Court is to ascertain whether the arrears have indeed been cleared and if the statement now made is found to be false, he initiate appropriate action as permissible under law.

6. There is no merit in this petition and therefore the same is dismissed. There shall be no order as to costs.

[M. S. SONAK J.]