

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice T.Amarnath Goud

Civil Miscellaneous Appeal No.872 of 2018

Date: 29.08.2018

Between:

Boda Supriya Naik

...

Appellant

and

1.All concerned

2.Smt.B.Gangamani and another.

...

Respondents

Counsel for the Appellant

:

Mr.K.Rama Subba Rao

The Court made the following:



Judgment: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This Civil Miscellaneous Appeal (CMA) arises out of Order, dated 02-06-2018, in EOP.No.733 of 2015 on the file of the Principal District Judge, Ranga Reddy District at L.B.Nagar (for short 'the lower Court').

We have heard Mr.K.Rama Subba Rao, learned Counsel for the appellant, and perused the record.

The appellant, who is a minor, is the natural daughter of one Boda Dhoop Singh. The natural father of the appellant has given the latter in adoption to his brother Boda Devi Singh, who was an employee of respondent No.3-Company. After the death of the said Boda Devi Singh, the natural father of the appellant filed GOP.No.733 of 2015 under Section 7 of the Guardians and Wards Act, 1890, for his appointment as guardian to the person and property of the appellant and to declare that the latter is entitled to a share in the death benefits of late Boda Devi Singh. By the aforementioned order, the lower Court has partly allowed the GOP by appointing the natural father as the guardian to the person and property of the appellant, and declined to grant

the relief of declaration that the appellant is entitled to a share in the death benefits of late Boda Devi Singh.

Under Section 7 of the Guardian and Wards Act, 1980, the Court is competent to appoint a guardian for a minor or the property belonging to her or both, if it is satisfied that the same is for the welfare of the minor. The entitlement of the appellant to a share in the death benefits payable to the family of late Boda Devi Singh is not a crystalised one, more so, when respondent No.2- widow of the said Boda Devi Singh has disputed the same. Thus, the right, if any, claimed by the appellant over the death benefits of the said Boda Devi Singh is inchoate. Therefore, the power of the lower Court to appoint a guardian for a property cannot be extended to a property, in respect of which the right is not established, and the Court cannot be conceded with the jurisdiction of determining the right of a minor to the property in the first instance and then appoint a guardian for such property. The lower Court has, therefore, rightly rejected the claim of the appellant to the extent of appointing her natural father as the guardian of the disputed

property leaving her free to approach the Civil Court for claiming such right.

For the aforementioned reasons, we do not find any merit in this Appeal and the same is, accordingly, dismissed.

As a sequel to dismissal of the Civil Miscellaneous Appeal, IA.No.1 of 2018, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(T.Amarnath Goud, J)

Date: 29th August, 2018
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