

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

Sr. No.128

C.R. No.5786 of 2018

Date of decision: 04.09.2018

Randhir Singh

....Petitioner

versus

Mohinder Singh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

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

* * *

DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 19.12.2017 passed by the Additional Civil Judge (Senior Division), Guhla (for short – 'the Trial Court') through which an application filed by the petitioner under Order 32 Rules 5 and 15 CPC seeking permission to represent the respondent as guardian/next friend has been dismissed.

The facts which are required to be noticed for adjudicating upon the present petition are that respondent No.1 filed a suit against respondent No.2 seeking therein symbolic possession by way of specific performance of sale deed dated 29.10.2003. In the alternative damages were prayed for. While the suit was pending, the petitioner, who is the brother of respondent No.2 -Paramjit Kaur filed an application under Order 32 Rules 5 and 15 CPC seeking permission of the Court to represent respondent No.2 as her guardian/next friend on the ground that respondent No.2 was suffering from a mental disorder. On the dismissal of this application, the petitioner has knocked the doors of this Court through the present petition.

Learned counsel for the petitioner has been heard.

No evidence whatsoever was produced by the petitioner before the Trial Court to substantiate the averments made by him that respondent No.2 was suffering from a mental disorder. Even the averments made by the petitioner in this regard are found to be vague as no date as to when respondent No.2 started to suffer from any mental disorder has been given.

On perusal of the record, it is further found that the summons of the instant suit had been served upon respondent No.2, who had also duly acknowledged its receipt by appending her thumb impressions thereupon showing that she was in good mental health. The petitioner as also other brothers of respondent No.2 are also found to have earlier filed applications under Order 1 Rule 10 CPC to join the present proceedings, which were dismissed. Such applications had been filed on similar grounds as raised in the present application. The dismissal orders passed in those applications having not been challenged attained finality.

In view of the above, no error is found in the order of the Trial Court which is the subject matter of challenge in the present proceedings.

Dismissed.

(DEEPAK SIBAL)
JUDGE

September 04, 2018

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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No