

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108

FAO No.6994 of 2017 (O&M)

Date of Decision : 16.05.2018

Jaspreet Singh @ Jaspreet Singh Bajwa
and others

..... Appellants

Versus

General Public and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present :- Mr. P.S.Jammu, Advocate
for the appellants.

Mr. Varun Sharma, Advocate
for respondent No.2.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the judgment and order of the Additional District Judge, Jalandhar dismissing a petition under Sections 52 and 53 of the Mental Health Act, 1987 (for short 'the Act') which was originally filed by Jaspreet Singh @ Jaspreet Singh Bajwa younger brother of Manpreet K.Singh @ Manpreet K.Bajwa, D/o Sukhvir Singh (who is stated to be requiring a guardian under the Act). One of the reasons which had prevailed with the trial Court was that he was not convinced about the mental condition of the appellant.

On 31.10.2017 the following order was passed :-

“CM No.22583-CII of 2017

*Present application has been moved under Order 23
Rule 1-A CPC read with Order 1 Rule 10 CPC for transposing*

Sukhvir Singh @ Sukhvir Singh Bajwa and Amarjit Bajwa @ Amarjit Kaur Bajwa as proposed appellants nos.2 & 3, who were otherwise party respondent nos.2 & 3 before trial Court as being the parents of patient Manpreet Kaur Bajwa in the proceedings for appointing her Guardian due to her incapacity on account of suffering from mental ill health.

CM allowed subject to all just exceptions and Sukhvir Singh @ Sukhvir Singh Bajwa and Amarjit Bajwa @ Amarjit Kaur Bajwa are allowed to be permitted to be transposed as appellant nos.2 & 3.

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Appellant-Jaspreet Singh @ Jaspreet Singh Bajwa along with his parents in the present appeal have assailed the order dated 9.9.2017 passed by the learned Additional District Judge, Jalandhar whereby the petition under Sections 52 & 53 of the Mental Health Act 1987 for appointment as a Guardian of mentally ill Manpreet Kaur, has been dismissed.

It is inter alia contended that the medical evidence qua the treatment of mentally ill patient Manpreet Kaur @ Manpreet Kaur Bajwa from the records of the Mental Hospital, Amritsar produced on record is sufficient to prove that the patient requires appointment of Guardian. It is urged that merely the parents had not come forwarded to be appointed as a Guardian is not sufficient to decline the request for appointment of Guardian. However, even the said objection has been removed by moving the aforesaid application.

Notice of motion for 29.01.2018.

Steps be also taken for serving the General Public by way of proper publication.

At this stage Mr. Varun Sharma, Advocate has put in appearance on behalf of respondent no.2 by filing memo of appearance.

In the meanwhile Director PGIMER, Chandigarh is directed to constitute a Medical Board for examining the

patient Manpreet Kaur @ Manpreet Kaur Bajwa and submit a report qua the following parameters :-

- (i) Psychological Assessment (IQ Assessment) report of the patient.*
- (ii) Whether the patient needs constant care of her routine activity?*
- (iii) Whether the patient required Assistance of her relative for daily routine work i.e. to wear clothes or other daily routine activities and for signing any document?*
- (iv) Whether the patient is suffering from any mentally retardation or is mentally ill?*
- (v) Whether the mental problem is curable and what type of treatment is required?*

Parties are further directed to appear before the Director PGIMER, Chandigarh for compliance of aforesaid directions.

Registry to communicate this order to the Director PGIMER, Chandigarh for compliance.”

Thereafter one report dated 16.01.2018 has been received from the PGIMER, Chandigarh as per which the following has been mentioned :-

- i. “Psychological assessment (IQ) reportable (IQ assessment) report reveals Mean IQ of 27 (vide Psychological Referral Report No.47/18 dated 12.01.18).*
- ii. Patient needs constant supervision, care and assistance for her routine activities including activities of daily living.*
- iii. Patient needs constant assistance of her relatives for daily routine work including activities liking wearing clothes, maintaining personal hygiene and other daily routine activities and for signing any document.*
- iv. She suffers from severe mental retardation (IQ=27) with severe to profound impairments in conceptual skills, functional academic skills, self care, skills related to maintenance of one's health, communication, independent living, and social and inter-personal skills with a disability*

of 90%.

v. Mental retardation is not curable, and the treatment mainly shall constitute of supportive and assistive measures.”

In view of this report it can not be said that Manpreet K.Singh @ Manpreet K.Bajwa does not require a guardian. The finding of the trial Court on this issue is set aside. The second factor which weighed with the trial Court was that the parents should have applied for guardianship. During the pendency of this case the parents of Manpreet K.Singh @ Manpreet K.Bajwa were transposed as appellants No.2 & 3. The father of Manpreet K.Singh @ Manpreet K.Bajwa as identified by the learned counsel for the appellant is present in Court. It is stated that the appellant No.3 is also suffering from serious medical complications. Even though this Court has no doubt about the intentions of the appellant No.1. I am of the opinion that it would be more appropriate if the appellant No.2 is appointed as guardian of Manpreet K.Singh under Sections 52 and 53 of the Act.

The appeal is allowed to the above extent.

Since the main case has been decided, the pending Civil Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

16.05.2018
Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No