

**Basavraj
G. Patil**

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.243 OF 2017

Mr. Rajiv Somani		Appellant
Vs.		
Mr. Vinod Shenoy		Respondent

Mr. Pradeep Thorat a/w. Ms. Ravina Rajpal a/w. Ms. Leanne D'souza, Ms. Varnalee Mishra I/b. Singh & Singh & Malhotra & Hegde for the Appellant
Mr. Kunal Bhanage a/w. Mr. Raghavan Sarathy a/w. Mr. indrajeet Suryawanshi a/w. Nikhil Waje a/w. Sahil Nanavati I/b. Thodur Law Associates for the Respondent

CORAM: K.K.TATED, J.
DATED : NOVEMBER 19, 2019

P.C.

1 Heard. By this First Appeal, the Appellants are challenging the order dated 10.04.2015 passed by the Bombay City Civil Court at Mumbai in Mental Health Petition No.4/2015 allowing the application made by the Respondent for appointment of a guardian u/s.53 of the Mental Health Act 1987 and order dated 22.07.2016 in Misc. application No.4/2016 in Mental Health Petition No.4/2015 dismissing the Appellant's application to set aside and recalling the order dated 15.04.2015 in Mental Health Petition No.4/2015.

2 The learned counsel for the Appellant submits that they filed the First Appeal because their rights in respect of the suit property situated Lonavala is affecting, because of the impugned order passed by the Trial Court.

3 In the present proceedings the advocate for the Respondent has filed his submission and the authorities. Bare reading of the submissions and the authorities filed by the Respondent shows that same objections were raised by the Respondent in connected First Appeal No.366/2017. Hence both these appeals i.e. First Appeal No.366/2017 and 243/2017 are heard together.

4 The order dated 19.11.2019 passed in First Appeal No.366/2017 fully covers the grounds raised in the present First Appeal.

5 In view of the reasons given by this court in First Appeal No.366/2017 vide order dated 19.11.2019, following order is passed:

a. Order dated 10.04.2015 passed by the Bombay City Civil Court at Mumbai in Mental Health Petition No.4/2015 allowing the Respondent's application for appointment of a guardian u/s.53 of the said Act is set aside with costs.

b. In view of setting aside the order dated 10.04.2015 in Mental Health Petition No.4/2015, order passed by the Trial Court dated 22.07.2016 dismissing the Appellant's Misc. application No.4/2016 is set aside.

c. The First Appeal is allowed accordingly, with costs.

(K.K.TATED, J.)