

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

CWP-22305-2020(O&M)

Date of decision: 22.12.2020

Chander Kanta and another

.....Petitioners

Versus

Canara Bank and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Abhinay Goel, Advocate for the petitioners

ANIL KSHETARPAL, J. (ORAL)

Through this writ petition, the petitioners are seeking the following reliefs:-

(i) Kindly issue writ in the nature of mandamus for the appointment of petitioners as legal guardians/care takers of the respondent no.3 who is a mentally ill & bed ridden person, suffering from Dementia due to which his memory is totally dead in the interest of law and justice.

(ii) Kindly further issue directions to the Bank/respondent no.1 to allow the petitioners to manage the disbursement of monthly amount from the pension account no. 82012030003990 to meet the medical and daily survival expenses of the ailing husband of the petitioner no.1 and father of the petitioner no.2 in absence of which the survival of respondent no.3 is not possible in the interest of law and justice.”

In substance, the petitioners are calling upon the Court to appoint them as legal guardians/care takers of respondent no.3 (their father). It is the pleaded case of the petitioners that they have a dispute with respondent no.2 who is daughter of respondent no.3. It is also claimed that respondent no.3 is mentally ill.

It has been pleaded that since the Mental Health Act, 1987

has been repealed and substituted by Mental Health Care Act, 2017, therefore, the petitioners do not have any remedy.

This Court has considered the submissions. In the considered view of this Court, the petitioners, in absence of any remedy under the Special Act, have remedy before the Civil Court for the relief claimed in the writ petition. In this case, the court shall be required to appreciate evidence which is possible only after the parties are permitted to lead oral as well as documentary evidence. For that purpose, the Civil Court is well equipped.

In view thereof, the petitioners are relegated to the alternative remedy.

Disposed of.

22.12.2020
rekha

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No