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A.No.5815 of 2014
in C.S.No.596 of 2014

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N.SESHASAYEE, J.,

The plaintiff has taken out an application to hold an enquiry to ascertain the mental condition of the first defendant, and if he is incapable of protecting his person and property and also for appointing a guardian for the first defendant.

2. The suit is laid for declaration of certain settlement deeds executed by the first defendant R.Seshadri alias Pappanna, is void, invalid, unenforceable and not binding on the plaintiff, and for certain ancillary reliefs. The facts are :

- The first defendant Seshadri is the brother of the plaintiff. The defendants 2 to 6 are the plaintiffs brother and sisters. Due to his weak mental condition, the second defendant was under the care of Kalyanaraman, the plaintiff. Sometime in 2013, Kalyanaraman left for the USA., owing to which, he left the first defendant to the care of the second defendant, who is the yet another brother of the plaintiff.



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Taking advantage of the weak mental condition of the first defendant, the second defendant had obtained a settlement deed executed by the first defendant on 23.01.2014, in respect of the suit property.

3.1 In its order dated 28.10.2021, this Court has recorded as below :

In the report dated 20.07.2018 of the Medical Officer, he has recorded his observation as below :-

“Mr.R.Seshadri @ Pappanna, accompanied by younger brother (Mr.Sankaran), was registered in IMH OP on 06.03.2018. Based on physical, clinical and psychological evaluation, his IQ was assessed to be 45, indicating moderate level of mental retardation. He was able to identify colours, able to say the utilities of common objects, manage his self care, cannot travel on his own and does not handle money. Psychometric assessment revealed moderate level of intellectual capacity and impairment in social and adaptive functioning. It is informed that the above said psychological evaluation was performed in the presence of both the counsels as directed by the court.”

2.Based on the physical,clinical and psychological evaluation, his IQ is assessed to be 45, indicating moderate level of mental retardation, he was able to identify colour, able to say the utilities of common objects, manage his self care, cannot travel



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on his own and does not handle money.

3.2 It is also relevant to extract the subsequent proceedings of the Medical Board dated 12.08.2021 and 27.10.2021:

a) Report of the Medical Officer on 12.08.2021:

“Mr.R.Seshadri @ Pappanna, accompanied by younger brother (Mr.Sankaran), was registered in Institute of Mental Health, Outpatient on 06.03.2018. Based on physical, clinical and psychological evaluation, his IQ was assessed to be 45 indicating, moderate level of intellectual disability and report was submitted to the Hon'ble Court on 07.09.2018. Again, clinical, psychological assessment done on 13.7.2021 revealed social quotient of 44, indicating moderate level of intellectual disability. Original copy of the clinical psychological assessment was received by his brother (Mr.Sankaran) on 14.07.2021. The patient had an acute cerebrovascular attack – right medullary infarct in September 2017. MRI brain on 29.09.2017 revealed sub-acute infarct in the dorsal aspect of upper medulla on right side. Final neurological opinion is pending in this regard.

a) Report of the Medical Officer on 27.10.2021:

“Mr.R.Seshadri @ Pappanna, accompanied by younger brother (Mr.Sankaran), was was registered in Institute of Mental Health, Outpatient on 06.03.2018. Based on physical, clinical and psychological evaluation, his IQ was assessed to be



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45 indicating, moderate level of intellectual disability and report was submitted to the Hon'ble Court on 07.09.2018. Again, clinical, psychological assessment done on 13.7.2021 revealed social quotient of 44, indicating moderate level of intellectual disability. Original copy of the clinical psychological assessment was received by his brother (Mr.Sankaran) on 14.07.2021. The patient had an acute cerebrovascular attack – right medullary infarct in September 2017. MRI brain on 29.09.2017 revealed sub-acute infarct in the dorsal aspect of upper medulla on right side. Final neurological opinion is pending in this regard. As per the neurologist's opinion, patient needs to be admitted in the neurology ward for five days for final opinion. But, the patient is yet to be admitted in the ward and the neurological opinion is pending.

In other words, for neurological evaluation, the patient was not admitted.

3.3 In the meantime, to evaluate the mental ability of the first defendant and to defend himself, this Court in its order dated 28.10.2021, has directed his production on 29.10.2021, and accordingly he was produced on 29.10.2021.

This Court asked certain preliminary questions to the first defendant and also posed certain formal questions to him. It is relevant to extract a portion of the order dated 29.10.2021 and they are :



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“ 2. The Court held the enquiry :

Q) What is your name?

A) R.Seshadri

Q) Where have you come?

A) Criminal case

Q) What is the case laid?

A) My elder brother has filed the case to identify my mental capacity

3. He is not able to state the purpose for which the suit was laid and looks around for prompting”

4. This Court found that D1 was not able to state the purpose for which the suit was laid and looks around constantly for prompting by others.

5. This Court, therefore comes to the conclusion that the first defendant cannot take care of his affairs vis-a-vis the conduct of this case. Inasmuch as the allegations itself is against the second defendant, this Court appoints the second defendant in whose custody the first defendant is, as the guardian.



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5. Accordingly, this petition is allowed.

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22.12.2021