

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

**FAO-912-2020 (O&M)**

**Date of decision : 04.08.2022**

**Manpreet Kaur**

**...Appellant**

**Vs.**

**Gurdeep Singh and others**

**...Respondents**

**CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Jaideep Verma, Advocate for the appellant.

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**MANOJ BAJAJ, J.**

**CM-9475-CII-2022**

Application is allowed as prayed for.

Annexures A-4 to A-6 are taken on record.

**Main case**

Appellant has filed this appeal against the judgment dated 16.09.2019 passed in Civil Suit bearing No.24/22.08.2012 by Additional Civil Judge (Senior Division), Kharar, whereby her application under Section 53 Mental Health Act, 1987 seeking appointment of guardian of the person and property of Jaswinder Singh (brother of appellant), was dismissed.

Learned counsel for the appellant submits that the appellant- Manpreet Kaur and her brother-Jaswinder Singh, were born from the second marriage of their father-Kirpal Singh with their mother Karamjit Kaur, whereas from the first marriage of Kirpal Singh, Gurdeep Singh and Randhir Singh (sons) and Kulwant Kaur and Kuldip Kaur (daughters) were born. He submits that in order to protect the interest of Jaswinder Singh, who is of unsound mind, he has to be represented by a guardian and the Additional Civil Judge (Senior Division), Kharar, vide impugned order dated 16.09.2019 has

erroneously dismissed the application filed by the appellant by ignoring the conduct of his step brothers, who are taking advantage of his disability. Mr. Verma, learned counsel has argued that earlier a sale deed was executed on 06.02.2013 by Jaswinder Singh in favour Gurmeet Singh and Harjit Singh, which was challenged by appellant (sister of Jaswinder Singh) as guardian of Jaswinder Singh through a civil suit.

Learned counsel has further argued that on account of acquisition of land belonging to Jaswinder Singh, a civil suit for release of compensation was also filed by Jaswinder Singh through his guardian and in the said proceedings, he had moved an application to allow him to contest the suit in his own capacity, but after examining him, the Court dismissed the application by observing that the plaintiff is not mentally fit to understand his good and bad. He has invited the attention of the Court to the said order dated 18.09.2018 (Annexure A-1) to submit that the appellant was his guardian. According to the learned counsel, the impugned order passed by Additional Civil Judge (Senior Division), Kharar is against law and interest of Jaswinder Singh, therefore, interference is warranted by this Court.

During the course of hearing, it was not disputed by Mr. Verma, learned counsel that another civil suit titled as “Manpreet Kaur Vs. Gurdeep Singh and others” was also filed by the appellant to seek declaration against her step brothers, sisters as well as Jaspreet Kaur and Jaswinder Singh by propounding a Will allegedly executed by Kirpal Singh and the said suit is pending adjudication.

After hearing the learned counsel and considering the above background, particularly the fact that Manpreet Kaur herself is litigating

against Jaswinder Singh to challenge inheritance of property of Kirpal Singh by natural succession by setting up a Will, therefore, this fact alone is sufficient to hold that her interest is adverse to her brother and it would not be appropriate to appoint her as guardian of Jaswinder Singh to protect his interest. The litigation is already pending and it is for the said Court to ensure that Jaswinder Singh is properly represented. Besides, it is not the case of the petitioner that in those pending litigation, Jaswinder Singh is not properly represented.

Apart from it, a perusal of the impugned order shows that Additional Civil Judge (Senior Division), Kharar has carefully considered the entire material on record before dismissing the petition.

Consequently, this Court does not find any merit in this appeal and it does not warrant any interference.

Dismissed.

(MANOJ BAJAJ)  
JUDGE

04.08.2022

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|-----------------------------|-----|----|
| Whether speaking/reasoned : | Yes | No |
| Whether Reportable :        | Yes | No |