

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

Civil Revision No. 715 of 2019(O&M)

Date of Decision: 17.10.2023

Surjeet Singh

...Petitioner

Versus

Sunita Devi & Ors.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Som Nath Saini, Advocate
For the petitioner.**

None for respondent No.1.

**Ms. Ashwarya Bajaj, Advocate
For respondent No.2.**

**Mr. R.S. Longia, Advocate
For respondent No.6.**

KARAMJIT SINGH, J.

1. The present petition has been filed by petitioner/ defendant No.2 against the order dated 28.11.2018 (Annexure P-9) passed by the Court of Civil Judge (Jr.Divn.), Kurukshetra whereby while considering an application filed under Order 32 Rules 3 and 4 CPC, the learned trial Court held that Priyanka has no adverse interest to that of Kuldeep Singh (mentally unsound person), in the present suit and she is natural heir of Kuldeep Singh and is fit to be appointed as his guardian subject to filing of affidavit by Priyanka in compliance of Order 32 Rule 3(3) CPC.

2. The brief facts of the case are that respondent No.1/ plaintiff Sunita Devi filed civil suit for declaration to the effect that judgment and decree dated 13.03.1985 passed by the Court of Additional Senior Sub

Judge, Kurukshetra in civil suit No. 160/166 of 1985 titled Kuldeep Singh etc. Vs. Roop Chand is illegal, null and void. That defendant No.1 Kuldeep Singh was sued through his mother Phooli Devi, he being mentally unsound. Said Kuldeep Singh was declared as mentally infirm by the trial Court vide order dated 09.07.2018. Application under Order 32 Rules 3 and 4 CPC was filed to appoint the Court Guardian of Kuldeep Singh. In the meantime, Civil Revision No. 160/ 2017 was decided by this Court vide order dated 07.05.2018 with direction that the learned trial Court should immediately appoint a guardian of defendant no.1 Kuldeep Singh and thereafter proceed with the case as the suit is more than 04 years old. Needless to say that *inter se* claim between mother and wife for appointment of guardian would be decided by the trial Court.

3. The counsel for the petitioner while assailing the impugned order (Annexure P-9), contends that the learned trial Court while passing the said order has traveled beyond the previous order passed by this Court dated 07.05.2018 whereby the trial Court was directed to decide *inter se* claim between mother and wife for appointment of guardian of Kuldeep Singh. The counsel for the petitioner further submits that however the learned trial Court appointed Priyanka married daughter of Kuldeep Singh as his guardian in violation of the aforesaid order dated 07.05.2018 passed by this Court. So, prayer is made that impugned order be set aside and the trial Court be directed to reconsider the matter in light of order this Court dated 07.05.2018.

4. The counsel appearing on behalf of respondents No.2 and 6 are having no objection if the learned trial Court is directed to reconsider the subject matter in issue in the light of the earlier order passed by this Court.

5. Today, there is no representation on behalf of respondent No.1.

6. I have considered the submissions made by counsel for the petitioner.

7. In view of the fact that this Court in CR no. 160/2017 decided on 07.05.2018 while limiting the scope of enquiry gave specific directions to the trial Court to consider *inter se* claim between the mother (Phooli Devi) and wife (Salochna Devi) for appointment of guardian of Kuldeep Singh for the purpose of disposal of the suit. In the given circumstances, there was no occasion for the trial Court to consider the claim of third person i.e. Priyanka daughter of Kuldeep Singh for her appointment as guardian of her father Kuldeep Singh.

8. In light of the above, present petition is hereby allowed without expressing any opinion on the merits of the case and the impugned order dated 28.11.2018 (Annexure P-9) passed by the learned trial Court is set aside with direction to reconsider the matter regarding appointment of guardian of Kuldeep Singh, in the light of the earlier order dated 07.05.2018 passed by this Court in Civil Revision No. 160 of 2017. Needful be done within a period of 06 weeks from the date of receipt of certified copy of this order. The parties are directed to appear before the trial Court on the date already fixed in the suit.

(KARAMJIT SINGH)
JUDGE

17.10.2023
Jiten

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No