

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

138

RSA-2554-2023 (O&M)
Date of Order: 04.08.2023

RAVINDER SETHI AND ANOTHER

.Appellants

Versus

GENERAL PUBLIC

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. J.S.Mehndiratta, Advocate, for the appellants.

ANIL KSHETARPAL, J

1. The learned counsel representing the appellants submits that in view of the judgments passed in State of Orissa and another vs. Laxmi Narayan Das (Dead) through LRs and others, (2023) SCC Online SC 825, Shobha Gopalkrishnan vs. State of Kerala represented by the secreatry and another, , 2019 (2) R.C.R.(Civil) 422, Vandana Tyagi and another vs. Government of National Capital Territory of Delhi (Gnctd) and others,(W.P.(C) No.11003 of 2019 and C.M. No.45428 of 2019, decided on 07.01.2020), Uma Mittal and 4 others vs. Union of India and 5 others, 2020 AIR (Allahabad) 202, and Ayan Kumar Das and Another vs. The Union of India and others, 2022 AIR (Gauhati) 120 , the appellants will have to file a writ petition under Article 226 of the Constitution of India, as the civil suit filed before the trial court for the appointment of guardian of the property of patient lying in Hypoxic-ischemic Encephelopathy Sequalae with spastic quadripareses, dysphagia, in a persistent vegetative state (PVS) and minimally conscious state (MCS) since 27.01.2017 was not maintainable. He prays for permission to withdraw the appeal in order to file the writ petition.

2. This court has considered the submission of the learned counsel representing the appellants and perused the judgments passed by the courts below.

3. Both the courts have held that there is no provision in the various statutes for appointment of a guardian of a person lying in comatose state. Thus, there is no decision on the merits of the controversy. This is a peculiar case where the wife and son of the patient are praying for appointment of the guardian in order to manage the property of the patient.

4. Keeping in view the aforesaid facts, the appellants are permitted to withdraw the present appeal in order to avail the alternative remedy.

5. All the pending miscellaneous applications, if any, are also disposed of.

August 04, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO