



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

239

CWP-10392-2024 (O&M)

Date of decision: 06.09.2024

Nikhil Jain

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Shubham Mangla, Advocate and
Ms. Anchal Goyal, Advocate for the petitioner.

Mr. Suneel Ranga, DAG Haryana.

Ms. Diksha Sharma, Advocate for respondents No. 5 and 6.

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for appointing the petitioner as guardian of his father Lajpat Jain for protecting his interest and to enable the petitioner to operate the bank accounts, investments, proprietorship business, etc. and to take decisions regarding his other movable or immovable properties, since the said Lajpat Jain is in a comatose state since 03.10.2023.

2. The petitioner has approached this Court for appointing him as a guardian of his father, who is in an unconscious state since 03.10.2023. Said Lajpat Jain was carrying on business of commission agent and having two sole proprietorship firms in the name of 'Sumerchand Lajpat Jain' having license No.444/pai/board and 4742/kth/board in Kaithal Grain Market, Kaithal (Haryana). The father of the petitioner is the sole proprietor of the above said firms and the petitioner used to assist him in running the affairs of the said business. Lajpat Jain met with a road accident on



03.10.2023 and he was immediately taken to Fortis Hospital, Mohali where he was diagnosed with **RTA-Severe Head Injury, Post De-compressive Craniotomy, Aki and Sepsis**. On 04.10.2023, Lajpat Jain had GCS-E1VETM3 which meant that he was not able to open his eyes and to move his body himself. On the same day, he was operated for severe head injury in Fortis Hospital and put on Continuous Mandatory Ventilation (CMV) mode. The petitioner's father was discharged on 25.10.2023 with GCS E1VETM3. Since 03.10.2023, Lajpat Jain is continuously in comatose state, unconscious, unable to speak, move, write and sign and has been breathing with the help of 'Tracheotomy Tube' in his throat. The discharge summary is annexed as Annexure P-2. He has been suffering from multiple ailments thereafter and despite being managed conservatively, it still requires a heavy financial exposure. A sum of Rs.25 lakh has already been spent by the petitioner on his treatment and he has already borrowed money from different sources, including his relatives and friends, to meet the medical expenses. It is contended that the petitioner is unable to use any of the accounts associated with his business or any bank account of his father and he is even not entitled do any business transaction since the firm's license is on the name of his father. Having exhausted all his financial resources, the petitioner is in a state of depression, despair and abandonment and undergoing irretrievable agony, stress and suffering on account of his father's condition. There is certain money which is lying deposited therein, however, on account of his father being indisposed, the petitioner is not being permitted to operate the said accounts. Apart from the petitioner,



respondent No.5 and respondent No.6 (mother and sister of the petitioner) are the only Class-1 legal heirs of Lajpat Jain and their affidavits are attached with the present petition as Annexures P-4 and P-5 respectively.

3. Details of the immovable and movable properties of the father of the petitioner are as under:

“ **IMMOVABLE PROPERTIES**

<i>Sr. No.</i>	<i>Size of Property</i>	<i>Address</i>
<i>1.</i>	<i>Shop- 94.44 square yards</i>	<i>Shop No.77A, New Anaj Mandi, Kaithal, Haryana.</i>
<i>2.</i>	<i>House- 200 square yards</i>	<i>H. No.288, Model Town, Jind Road, Kaithal, Haryana.</i>
<i>3.</i>	<i>Plot- 510 square yards</i>	<i>Near warehouse Kaithal, Haryana.</i>
<i>4.</i>	<i>5% share in Agriculture land- khewat no.61, khatoni no. 72, murba no. 182, killa no.1, 2, 3/2, 8/1, 9/1, 10/1</i>	<i>Chandana village district- Kaithal, Haryana.</i>

MOVABLE PROPERTIES

<i>S. No.</i>	<i>Description of Property</i>
<i>1.</i>	<i>Firm Acc- HDFC Acc No. 50200056268012 Name- Sumer Chand Lajpat Rai Jain Branch- HDFC Bank, Jind Road Kaithal, Haryana 136027</i>
<i>2.</i>	<i>Personal Acc- HDFC Acc No.- 50100270748936 Name- Lajpat Jain Branch- HDFC Bank, Jind Road Kaithal, Haryana 136027</i>

4. The father of the petitioner is complainant and plaintiff in the following cases:



- 1. NACT case no. 1368/2022**
- 2. NACT case no. 1391/2023**
- 3. Civil suit for recovery CS No.224 of 2023**
- 4. Civil suit for recovery CS No.81 of 2023**
- 5. Civil suit for recovery CS no. 617 of 2023 ... ”.**

5. Learned counsel for the petitioner contends that the petitioner has exhausted all of the family's resources in meeting out the financial burden and medical expenditure for the treatment of his father and that he may be permitted to operate the said bank accounts to augment their financial resources for continuing the treatment of his father.

6. Notice in the present petition was issued. No one, however, has filed any objection(s) on behalf of General Public despite publication in the newspaper. The respondent-General Public was thus ordered to be proceeded against ex parte. Learned counsel for respondents No.5 and 6 expressed their no objection to the petition being allowed.

7. A report had also been called from the Civil Surgeon, Kaithal. A Medical Board was constituted by the Civil Surgeon, Kaithal comprising of Dr. Rajiv Mittal (ASMO), Dr. Sachin Mandlay, SMO and Dr. R.D. Chawla, Consultant General and the said Lajpat Jain has been reported to be in unconscious state with GCS score of E1VTM3, The Ryle's tube, foley's catheter and tracheostomy tube are still inserted for feeding, urination and ventilation purpose and he is unable to speak, walk and recognize any person. The medical report (Annexure R-1) is attached with the reply dated 10.07.2024.



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8. Taking into consideration the totality of the circumstances and larger interest of justice and also noticing that there is no other claimant to dispute the status of the petitioner and/or his entitlement to operate the account of Lajpat Jain, the present petition is allowed. Resultantly, Mr. Nikhil Jain, petitioner-son of Lajpat Jain is hereby appointed as his guardian and is authorised to operate his savings/current bank accounts and to represent the firm as well as his father, in all the cases and to deal with the properties of the firm, the details of which have already been extracted in the preceding part of the judgment, subject to any other order that may have been passed by any Court of competent jurisdiction restraining operations of the said accounts or property.

9. Petition stands allowed accordingly.

(VINOD S. BHARDWAJ)
JUDGE

06.09.2024

Mangal Singh

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