

---

**(2021) 04 RAJ CK 0021**

**In the Rajasthan High Court**

**Case No : Civ. Leave To Appeal No. 6 Of 2021**

Girdhar Singh Lakhawat

APPELLANT

Vs

Shreedhar Singh And Ors

RESPONDENT

---

**Date of Decision : 29-04-2021**

**Acts Referred:**

Mental Health Act, 1987 — Section 50, 52  
Limitation Act, 1963 — Section 5

**Citation : (2021) 04 RAJ CK 0021**

**Hon'ble Judges : Dinesh Mehta, J**

**Bench : Single Bench**

**Advocate : Dr. Sachin Acharya**

---

## **Judgement**

1. Dr. Sachin Acharya, learned counsel for the appellant submits that an application under Section 50 and 52 of the Mental Health Act, 1987, purportedly came to be filed on behalf of the respondent No.1 in which respondent No.4 clandestinely got himself appointed as a guardian of property of respondent No.1 without impleading the appellant as party.
2. Inviting Court's attention towards the provisions of the Act of 1987, learned counsel argues that it was incumbent upon the parties or the Court concerned to implead appellant also as a party because he is real brother of Shreedhar Singh (Respondent No.1)
3. While maintaining that Shreedhar Singh is not mentally ill, learned counsel for the petitioner informs that the respondent No.4 has sought leave to file written statement on behalf of respondent no.1, in a suit for partition, pending in the Court of learned Additional District Judge, Sojat City involving ancestral property of the appellant and respondents.
4. In relation to delay in filing the present writ appeal/leave to appeal, learned

counsel for the petitioner submits that the appellant was not at all aware of the impugned order dated 03.12.2018 and he came to know about such order only recently. Thus, there was no occasion for him to file an appeal against such order.

5. Issue notice of the application under Section 5 of the Limitation Act. Issue notice of application for leave to appeal as well as stay application.

6. Having regard to facts and circumstances of the case, in spite of the fact that the appeal is barred by 746 days, this Court is of the view that if interim order is not passed immediately and effect and operation of the order dated 03.12.2018 is not stayed, it would prejudice the rights of the appellant and perhaps also of respondent no.1.

7. Hence, it is deemed expedient and hence ordered that till the next date, effect and operation of the impugned order dated 03.12.2018, passed by learned Additional District Judge, Sojat City, Pali in Civil Misc. Case No.34/2018 shall remain stayed.