
(1971) 09 P&H CK 0037
In the Punjab And Haryana At Chandigarh
Case No : F.A.O. No. 102 of 1969

Kartar Singh

APPELLANT

Vs

Amarjit Singh

RESPONDENT

Date of Decision : 07-09-1971

Acts Referred:

Lunacy Act, 1912 — Section 62

Citation : (1971) 09 P&H CK 0037

Hon'ble Judges : C.G. Sari, J

Bench : Single Bench

Advocate : H.L. Sarin and M.L. Sarin, for the Appellant; R.L. Sharma and Prem Pratap, for the Respondent

Final Decision : Dismissed

Judgement

C.G. Suri, J.—Cross Appeals, F.A.O. Nos. 102 and 103 of 1969, have been filed against an order passed by the District Judge, Ferozepore on 19th May, 1969 under Sections 62 and 67 of the Indian Lunacy Act (No. 4 of 1912).

2. By the impugned order, Kartar Singh who is appellant in F.A.O. No 102 of 1969 and respondent in F.A.O. No. 103 of 1969 has been declared to be a person of unsound mind and unfit to control and manage his property. This order was passed on the application of his adopted son Amarjit Singh, respondent/appellant. Amarjit Singh was a minor when he had filed this application in 1961 and his natural father Gujjar Singh had acted as his next friend.

3. During the inquisition, Kartar Singh has been under the observation of two doctors for a number of days. Both these doctors, one of whom was Dr. Vidya Sagar, Medical Superintendent of the Mental Hospital at Amritsar, had report that Kartar Singh was not a person of unsound mind Dr. Vidya Sagar had kept Kartar Singh under his observation from 16th August, 1961 to 25th August.-1961. The doctor was of the opinion that Kartar Singh had a sound mind and could manage himself though he would need the help of a sympathiser in managing his affairs

The latter part of the opinion was due to the fact that Kartar Singh had difficulty in communicating with others due to his intense deafness- Exhibit AC/R 2 is the opinion given by the Doctor in writing. It would not be out of place to observe that not a single question had been asked during the cross-examination of this eminent specialist Dr. S.P. Puri, Senior Medical Officer in the Government Civil Hospital at Ferrzepore, hid again kept Kartir Singh under his observation from 29th October, 1968 to 6th November, 1968 He has confirmed the opinion given more than seven years earlier, by Or Vidhya Sagar lo the opinion of Dr. Puri, the patient was friendly and active hen engaged in conversation or work. The patient remained attentive throughout and promptly attended to any communications addressed to him. The patient was, however, handicapped in communicating with others because of server deafness and impaired power of speech because of a nesal defect. His conduct and behaviour in dealings with others was found to be normal. He was declared to be emotionally stable with a fairly good memory He could add a few simple sums. He was not suffering from delusions or hallucinations. Dr. Puri's opinion was that Kartar singh possessed sound mind and could manage himself and his affairs independently- Exhibit K 1 is Dr. Puri's opinion in writing.

4. The opinion of the two doctors finds further corroboration from the fact that there is no evidence on record that before or after the filing of this application by his adopted son, the patient could be taken advantage of or duped into making any wasteful transfers of his property even though it was being said that there were persons out to gobble up his estate. There is no evidence of any mismanagement of his estate by the patient under observation. The medical evidence is that the patient required some sympathetic treatment and looking alter. If he could not get this sympathy and care from his adopted son or the latter's natural relations he would naturally have to turn to a stranger for sympathy. It is not every slight mental sub-normality which would justify a person being deprived of the control and management of his affairs and property. It can be that a person suffering from a slight mental or physical disability develops a complex which hinders normal behaviour in an unnatural atmosphere prevailing inside a court room Two doctors who had the patience to observe the conduct and behaviour of the patient, for a number of days at a time, had found tint in natural environment, the patient could be depended upon to look after not only himself but also his property. Tie District Judge had dismissed the petition in the first instance on the basis of the medical evidence of Dr. Vidya Sagar The learned District Judge who has passed the order now under appeal may appear to have stultified himself when he says at one place that the case is not of mental weakness or intellectual imbecility or of absence of competence to manage the estate. The finding given a little further on, however, is that Kartar Singh is a case of unsoundness of mind and is unable to manage his estate, though not his person One can very well believe that one's natural instincts of self-preservation may enable him to look after his own person and that the capacity to manage his property may call for a little higher order of intelligence

and that a person could not be left to depend solely on his natural instincts while managing an extensive estate simply because he can look after himself. We cannot, however, come to any such conclusion in the present case in view of the considered opinions of two qualified doctors who are experts in the line. It is not easily possible to lay down any nor nil mental standards to which everyone could strictly conform. A slight aberration would be found here and there in every case but that would not by itself be a ground for declaring a person to be a lunatic. It has been observed amongst other things by the Letters Patent Bench in the remand order dated 25th July, 1958 that the declaration of a person as a lunatic or as an idiot and an appointment of guardian for him is a serious matter involving grave consequences and that such a declaration can be made only on proper evidence.

5. I would, therefore, accept Kartar Singh's appeal (F.A.O. No. 102 of 1969) and would dismiss Amarjit Singh's appeal (F.A.O. No. 103 of 1969). The application filed by Amarjit Singh under Sections 62 and 67 of the Lunacy Act stands dismissed with costs throughout.