
(2011) 09 AHC CK 0098

In the Allahabad High Court

Case No : First Appeal From Order Defective No. 1703 of 2009

Smt. Smriti Sethi and Another

APPELLANT

Vs

Kumari Lili Dutta and Others

RESPONDENT

Date of Decision : 13-09-2011

Acts Referred:

Mental Health Act, 1987 — Section 52, 53, 54

Citation : (2011) 9 ADJ 664 : (2012) 1 AWC 220

Hon'ble Judges : Pankaj Mithal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Hon"ble Pankaj Mithal, J.—Counsel for the parties submit that the formal order has not been issued and as such its filing may be dispensed with.

2. The prayer is accepted.

3. Office to treat the defect on account of non-filing of the formal order to be cured and allot regular number to the appeal.

4. This appeal arises out of an order dated 29.8.2009 passed by the Additional District Judge in Misc. Case No. 3 of 2008 Km. Lili Dutta v. Sri Anil Dutta and others.

5. Lili Dutta, respondent No. 1 moved an application u/s 52 and 53 of the Mental Health Act, 1987 for appointment of guardian in respect of her brother Anil Dutta, respondent No. 2 on the ground that he is mentally ill and incapable of managing his affairs. The application despite opposition by Smt. Smriti Sethi and Praveen Dutta, the appellants herein, who are also brother and sister of the aforesaid Anil Dutta, was allowed by the Court below and the appellants were appointed as guardians for maintenance of Anil Dutta and for his mental treatment.

6. The appeal was filed by the appellants that their brother Anil Dutta is not

mentally ill although he is suffering from depression. The appeal was opposed on behalf of respondent No. 1, Km. Lili Dutta and it is contended that Anil Dutta had previously remained in asylum at Agra and that at the behest of the appellant he was discharged and was left at Meerut.

7. As the Court below without holding an "inquest" and examining Anil Dutta, without recording a clear finding as to whether he is capable of taking care of himself had passed the impugned order, the Court vide order dated 5.12.2009 directed the Chief Medical Officer, Meerut to get the aforesaid Anil Dutta examined by a competent Doctor and to submit a report with regard to his mental capacity or illness to this Court within a month.

8. Subsequently, when the medical report was not submitted, as directed, the Court vide order dated 2.9.2011 instructed Sri Shrish Chandra, learned Standing Counsel to contact the S.S.P., Meerut and obtain a report regarding the mental condition and the present status of Anil Dutta as the Court apprehended that his brothers and sisters want to usurp his property.

9. It is worth noting that the aforesaid Anil Dutta is residing in house No. M-3/187, Shradha Puri Phase-I, Kankerkhera, Meerut wherein Km. Lili Dutta is also said to be living. The said house was purchased by their father from Meerut Development Authority in which probably all brothers and sisters have a right.

10. In pursuance to the above order, Sri Shrish Chandra has informed that the S.S.P., Meerut on being instructed in this regard had contacted the C.M.O., Meerut who in turn made a request to the Principal, Lala Lajpat Rai Medical College for examining Anil Dutta medically and submit report. Accordingly, Dr. Subodh, Reader, Mental Illness Department of the Medical College personally examined Anil Dutta on 12.9.2011. He has submitted a report which has been produced by Sri Shrish Chandra, learned Standing Counsel to the Court. According to the said medical report, the patient is suffering from Paranoid Schizophrenia for the last 16 years and he has certified his disability to the extent of 90%. He has also advised that the patient be admitted for further treatment. The said report has been shown to the counsel for the contesting parties and in view of the said report they accept that Anil Dutta is mentally ill to the extent that he is incapable to manage his affairs and property.

11. The report is taken on record and shall form part of it.

12. In view of aforesaid facts and circumstances coupled with the finding recorded by the Court below, this Court is of the opinion that Anil Dutta is mentally ill and incapable of taking care of himself and managing his properties.

13. Counsel for both the parties agree that Anil Dutta be kept in a mental hospital for treatment as they are all unable to attend and look after him.

14. Smt. Smriti Sethi is said to be living in New Tehri, Uttarakhand and Praveen Dutta in Mumbai. Both are unable to look after Anil Dutta. It is not possible for any of them to take Anil Dutta with them. Km. Lili Dutta is alone and has meagre

means through tuitions which are hardly sufficient to make her two ends meet.

15. Thus, in exercise of power under Sections 52/53 and 54 of the Mental Health Act, 1987 the Collector, Meerut is directed to get Anil Dutta admitted in a mental asylum within 15 days from the date of receipt of the order. The Court of Wards is directed to take charge of the properties of the aforesaid Anil Dutta and assume management of such properties for his benefit in accordance with law. The Court of Wards would meet the medical expenses of Anil Dutta from out of the income from properties or his share in any property. In case of any difficulty, it will be open to the Court of Wards to seek assistance and help of the Collector in taking charge of the property.

16. Let a certified copy of this order be issued to Sri Shrish Chandra, learned Standing Counsel free of cost.

17. The appeal stands disposed of.