



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF FEBRUARY, 2023

BEFORE

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT PETITION NO.42752 OF 2018 (GM-RES)

BETWEEN:

SMT. P.S. LEELAVATHI

... PETITIONER

(BY SRI ABHINAV R., ADVOCATE)

AND:

1. SRI N. RAVI SHANKAR

Digitally signed by
MAHALAKSHMI B M
Location: HIGH
COURT OF
KARNATAKA

2. MRS. KALPANA GOVINDRAJ

3. M/S. ANANYA TRISTAR CENTRE



4. SRI T. JAYAPRAKASH

5. MS. M.K. JAYALAKSHMI

... RESPONDENTS

(BY SRI G.V. SHASHIKUMAR, ADVOCATE FOR R-1 AND R-2;
SRI ANAGHA NARASIMHA, ADVOCATE FOR
SRI P.B. AJITH, ADVOCATE FOR R-4;
R-3 AND R-5 ARE SERVED AND UNREPRESENTED)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 02.11.2017 PASSED BY THE XIX ADDL. CITY CIVIL SESSIONS JUDGE, BANGALORE (CCH-18) AT ANNEXURE-D TO THE WRIT PETITION AND CONSEQUENTLY ALLOW I.A.NO.5 FILED BY RESPONDENT NO.2 ON 06.02.2017 AT ANNEXURE-B TO THE WRIT PETITION.

THIS WRIT PETITION COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:-



ORDER

The present petition is filed by the 2nd respondent in Misc. No.499/2016 assailing the order dated 02.11.2017 on the file of the XIX Additional City Civil and Sessions Judge, Bengaluru (CCH-18) passed on I.A.No.V, whereby, I.A.No.V filed by the 2nd respondent under Section 50 (1) (d) of the Mental Health Act, 1987 read with Order VII Rule 10 of the Code of Civil procedure (hereinafter referred to as the 'CPC' for short) was dismissed.

2. Facts leading to filing of this petition is that Misc. No.499/2016 was filed by N. Ravishankar and Ms. Kalpana Govindraj (respondent Nos.1 and 2 herein) under Section 52 read with Section 50 of the Mental Health Act, 1987 to hold inquisition regarding the mental illness of the 5th respondent herein - M.K. Jayalakshmi and to appoint the respondent Nos.1 and 2 as joint managers insofar as the 5th respondent's undivided rights, title and interest in the schedule properties. This being so, I.A.No.V was filed by the 2nd respondent/petitioner herein invoking the provisions of Section 50 (1) (d) of the Mental Health Act, 1987 read with



Order VII Rule 10 of CPC seeking to return the petition to the petitioner on the ground that the Court has no territorial jurisdiction. It is stated in the affidavit accompanying I.A.No.V that the address mentioned that of the 1st respondent Sri. N. Ravishankar where the 5th respondent – M.K. Jayalakshmi is residing does not come within the territorial jurisdiction of the Court wherein, the Misc. Pet. No.499/2016 has been filed and accordingly, sought to allow the application and dismiss the miscellaneous petition for want of jurisdiction.

3. The said I.A.No.V was objected by the petitioners in Misc. No.499/2016 (respondent Nos.1 and 2 herein) on the ground that the Court has got jurisdiction to entertain the Miscellaneous petition as the 5th respondent herein-Ms. M.K. Jayalakshmi is residing within the territorial jurisdiction of the Court and the Court has jurisdiction to entertain the petition.

4. I.A.No.V was filed by the 2nd respondent/petitioner herein was rejected by the Trial Court



on the ground that item No.2 of the schedule property is situated within the jurisdiction of the Court and the Court has jurisdiction to entertain the petition and accordingly, dismissed the application-I.A.No.V filed by the petitioner herein. Aggrieved by the order of rejection, the present petition is filed.

5. Heard the learned counsel for the parties and perused the material on records.

6. Sri. Abhinav .R, learned counsel for the petitioner in addition to reiterating the various contentions raised in the petition, would submit that the Trial Court has not properly considered Section 50 (1) (d) of the Mental Health Act, which clearly states that the jurisdiction to entertain the petition would be on the basis where the mentally ill person is residing and not where the property is situated and would take this Court to the provisions of Section 50 (1) (d) of the Mental Health Act and stating these grounds, sought to allow the writ petition.



7. *Per contra*, Sri. G.V. Shashikumar, learned counsel for contesting respondent Nos.1 and 2/petitioners in Misc.No.499/2016 would justify the order passed by the Court below and contend that the order of rejection rejecting I.A.No.V is justifiable as the 5th respondent herein is residing within the territorial jurisdiction of the Court and the petition before the Court is maintainable and sought to dismiss the writ petition.

8. Heard the learned counsel for the parties and perused the material on record.

9. Section 50(1)(d) of the Mental Health Act reads as under:

"50. Application for judicial inquisition.—

(1) Where an alleged mentally ill person is possessed of property, an application for holding an inquisition into the mental condition of such person may be made either—

- (a) by any of his relatives, or
- (b) by a public curator appointed under the Indian Succession Act, 1925 (39 of 1925), or
- (c) by the Advocate-General of the State in which the alleged mentally ill person resides, or



(d) where the property of the alleged mentally ill person comprises land or interest in land, or where the property or part thereof is of such a nature as can lawfully be entrusted for management to a Court of Wards established under any law for the time being in force in the State, by the Collector of the District in which such land is situate, to the District Court within the local limits of whose jurisdiction the alleged mentally ill person resides."

(Emphasis supplied by me)

10. A careful perusal of said section makes it clear that when the person is suffering from mental illness and is possessed with the property, an application for holding an inquisition into the mental condition of such person may be made by either of the relatives before the District Courts within the local limits of whose jurisdiction the alleged mentally ill person resides as stated under Section 50 (1) (d) of the Mental Health Act.

11. A perusal of the miscellaneous application depicts that 5th respondent herein is in the custody of the 1st respondent and the 1st respondent centre is situated in 17th Mile, Kaggalipura, Kanakapura Road, Bengaluru. In light of



the above, it is clear that the jurisdiction of the Court under Section 50 (1) (d) of the Mental Health Act provides for jurisdiction before Kanakapura Court and rejecting the application by the Trial Court is not justifiable as the Bangalore City Civil Court, where Misc. No.499/2016 is filed lacks jurisdiction and the proper Court where the petition needs to be filed is the Court of Kanakapura where the 5th respondent resides.

12. For the reasons stated supra, this Court is of the considered view that the writ petition needs to be allowed and accordingly, this Court pass the following:

ORDER

- i. The writ petition is ***allowed.***
- ii. The impugned order dated 02.11.2017 on I.A.No.V in Misc. No.499/2016 on the XIX Additional City Civil and Sessions Judge, Bengaluru (CCH-18) is hereby set-aside and accordingly, I.A.No.V filed under Section 50 (1) (d) of the Mental Health Act, 1987 read with Order VII Rule 10 of the CPC by the petitioner/2nd



respondent in Misc. No.499/2016 is hereby allowed, holding that the XIX Additional City Civil Judge, Bengaluru (CCH-18) lacks territorial jurisdiction to entertain Misc. No.499/2016.

- iii. The XIX Additional City Civil Judge, Bengaluru (CCH-18) to return the petition filed under Section 52 read with 50 of the Mental Health Act, 1987 to the petitioner and the petitioner to file the petition before Kanakapura Court, which has got territorial jurisdiction to entertain the petition within a period of three weeks from the date of receipt of certified copy of the order.
- iv. In light of return of the petition, the Trial Court shall exercise the power under Order VII Rule 10A of CPC.

**Sd/-
JUDGE**

MBM