

ORDER ON IA No.4

This IA filed by the plaintiff No.2 U/O 32 Rule 3 of CPC and prays to appoint the court guardian to safeguard the interest of minor defendant No.3, in the interest of justice and equity.

2. In the annexed affidavit the plaintiff No.2 contended that, he is conversant with the facts of the case. Plaintiff No.1 is his wife. His wife has executed power of attorney in his favour. They filed the suit for recovery of Rs.10,80,793/- against the defendants and for permanent injunction.

3. The defendant No.1 is the wife of deceased Manoj Kumar Jain. The defendant No.2 is the son and defendant No.3 is the daughter of deceased Manoj Kumar Jain. The defendant No.3 is aged about 17 years, as such she is a minor, she is under the care and custody of defendant No.1 who is her natural mother. There is no conflict of interest between defendant No.1 and 3. In spite of service of summons the defendant No.1 has not appeared, hence placed ex parte. The defendant No.3 is a minor, as the defendant No.1 who is her natural mother has remained absent, the interest of minor defendant No.3 is to be safeguarded by appointing the court guardian. Hence, it is absolutely essential and necessary to appoint the court guardian for safeguarding the interest of minor defendant No.3. No prejudice will be caused to defendants if the

application is allowed. On the other hand, if the application is not allowed they will be put to heavy irreparable loss and legal injury which cannot be compensated at all. Hence, this application.

4. Heard the argument.

5. Now the points arise for my consideration are as under :-

1) Whether the plaintiff has made out sufficient grounds to allow IA No.4 ?

2) What order ?

6. My findings on the above points are as under:-

1) In the Affirmative

2) As per final order for the following;

REASONS

7. **Point No.1**:- I have gone through the contents of IA No.4 and records. It is noticed that, the defendant No.3 is minor as on the date of suit. Thereby the plaintiff filed IA No.1 U/O 32 Rule 3 of CPC and requested to appoint the defendant No.1 as a guardian of minor defendant No.3. The defendant No.1 is the natural mother of defendant No.3, thereby she has no adverse interest against defendant No.3. The IA No.1 is allowed by this court and appointed defendant No.1 as a minor guardian. This court has issued notices on defendant No.1 to 3. The said notices duly served upon the defendants. In spite of it, the defendants are not ready to appear and contest the case. In the meanwhile

the notice issued on minor defendant No.3 is served on the defendant No.1. In spite of it, defendant No.1 is not ready to act as a guardian, thereby the plaintiff has filed the present IA in order to appoint the court guardian in order to protect the interest of minor defendant No.3. The reasons mentioned in the IA are satisfied. Accordingly, in order to protect the interest of minor defendant No.3, this court feels that, it is better to allow IA No.5 and appoint the court guardian. Hence, I answer the above Point No.1 in the Affirmative.

8. **Point No.2**:- In view of the above discussion, I proceed to pass the following;

ORDER

IA No.4 filed by the plaintiff U/O 32
Rule 3 of CPC is hereby allowed.

One Sri KBS Advocate is appointed as a
court guardian on behalf of minor defendant
No.3.

No order as to costs.

Prl.Senior Civil Judge,
Davanagere.