

Title Suit 876 of 2024

Present: Sri Subhash Kumar Kar, Judge, Bench-V (WB00592)

Order No. 16/ Dated 19.12.2025

Parties have taken their respective steps.

Date is fixed for further hearing on the petition under Order 32 Rule 1 of C.P.C and for medical documents of the defendant.

Photocopy of one clinical report is placed on record on behalf of the defendant.

Heard further hearing of both sides on the petition.

This is a suit for declaration and injunction filed by M/s. Gupta and Co. and two others against the sole defendant, Mr. Vaibhav Agarwal and a petition under Order 32 Rule 1 of C.P.C is filed by one Vinty Khemani with a prayer to conduct the suit on behalf of the defendant on the premises that in other proceedings also Ld. 10th Additional Judge, Alipore has been pleased to appoint her as next friend to protect the interest of the present defendant in the said proceedings and it is further submitted that this court also in T.S. 1131 of 2017 allowed the petitioner to represent the present defendant in the said suit and petitioner also enclosed the server copy of the said order wherefrom it appears that the defendant has moved one application for stay of the suit on the ground of incapacity of the plaintiff no. 4 i.e. present defendant and since the legal incapacity of the plaintiff no.4 was admitted by the defendant in the said suit the plaintiff no. 1 i.e. the present petitioner was appointed as his guardian to protect his interest in the said suit.

In the instant suit there is no such admission on behalf of the plaintiff while the Ld. Advocate appearing for the plaintiff made his submission though no written objection has been filed against such petition and on the wake of such objection, this Court decided to enquire into the claim of the present petitioner and the Court personally examined the defendant on 28.11.2025 and some imprecision in his behaviour was noticed though he formed the reasonable answer to the question put to him and it was directed to produce his medical documents and from the photocopy of the clinical examination

dated 11.03.2016 done in the Institute of Psychiatry a Center of Excellence, Government of West Bengal it appears that his IQ was found to be 46 which indicates presence of moderate mental retardation, and such symptoms indicates his intellectual disability but it cannot be ascertained without any expert opinion whether such intellectual disability can be equated with the “unsoundness” of mind.

Therefore in my view the subject should be sent for medical examination before a Medical Board to be constituted with the experts.

Hence, he be referred to the Medical Board of S.S.K.M Medical College and Hospital, Kolkata with a direction upon the Medical Superintendent-Vice Principle to constitute a Medical Board for examination of Sri Vaibhav Agarwal, Son of Late Krishana Kumar Agarwal residing at Flat no. 4C, 63A, Charu Chandra Place East, Kolkata -700033 to form the following opinion :

1. Whether Sri Agarwal is suffering from any mental illness?
2. Whether “moderate mental retardation” can be termed as “unsoundness of mind”?

He is further directed to notify Smt. Vinty Khemani, present petitioner residing at 3, Wood Street, 7th Floor, P.S. Shakespeare Sarani, Kolkata -16 the date, time and place of such medical examination for attendance of the subject namely, Vaibhav Agarwal before the Medical Board and to submit the report by the date fixed.

Fix 06.02.2026 for report of the Medical Board and for further order.

Ad-interim order of temporary injunction be extended till the next date fixed.

Let a copy of this order be sent to the Medical Superintendent-Vice Principle, S.S.K.M Medical College and Hospital, Kolkata for information and necessary action.

D/c by me,

Judge.

Judge, Bench-V,
City Civil Court, Calcutta.