

Chellathammal Vs. Ammayappa Mudaliar

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SooperKanoon Citation : sooperkanoon.com/786926

Court : Chennai

Decided On : Dec-03-1908

Reported in : 3Ind.Cas.388

Judge : Miller and ;Munro, JJ.

Appellant : Chellathammal

Respondent : Ammayappa Mudaliar

Judgement :

1. It is beyond question that the order of the District Judge is a proper order in so far as it requires the guardian to obtain his permission before celebrating the marriage of his lunatic son, provided that he had jurisdiction to make it.

2. There is no provision in the Act under which the guardian is appointed declaring what are the powers of the Court after appointment, but it was conceded by Mr. Sataya Nadar that we are not on that account to deny to the Court all powers of control over the guardian. He was prepared to admit that if the guardian contemplated an improper marriage of the lunatic, the Court could interfere if the proposal was brought to its notice. If that is conceded there is no ground that we can see for holding that the Court is not empowered to require the guardian to obtain its permission before arranging a marriage; otherwise the power of interference might be in effectual in some cases in which its exercise is most desirable.

3. In In the matter of Basharat Ali Chowdhry 24 C.133, it is held to be unquestionable that the guardian is in complete subordination to the Court which appointed and can remove him and the power to control so important a matter as marriage is a power which ought not lightly to be denied to the Court.
4. It will not, no doubt, as a rule, interfere with the choice made by the guardian and the family in the matter of marriage, but that is not a reason why it should not have the power to do so if need be.
5. In the case of minors the Court has required [Re: Gulbai and Lilbai 32 B. 50 : 9 Bom.L.R. 923,] as consent to be obtained to a marriage see also Shridar v. Hiralal Vithal 12 B. 480 and the considerations which apply to a minor are, speaking generally, applicable also to a lunatic.
6. We agree with these decisions and we have no doubt that the District Judge had jurisdiction to make the order requiring the guardian to obtain his premission before marrying the lunatic. '
7. The question whether the Hindu Law allows a male lunatic to contract a valid marriage is not one which we are called on to decide.
8. We dismiss the appeal with costs.