

Sangayya Tevan Vs. Pethamall

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Court : Chennai

Decided On : Dec-11-1919

Reported in : 56Ind.Cas.513a

Judge : Spencer and ;Krishnan, JJ.

Appellant : Sangayya Tevan

Respondent : Pethamall

Judgement :

1. A preliminary objection has been taken that, the Judge's order of the 6th December 1918 appointing a guardian not having been appealed against, the present appeal against the order of 3rd May 1919 is out of time and incompetent. The latter order is itself an indication that no final appointment was made before that date as it ends with the words ' the final order will now issue,' by which was evidently meant an order in Form No. 94 of the Civil Rules of Practice under Section 7 of the Guardians and Wards Act, There are also indications in the earlier orders on the 6th December 1918, 10th and 24th April 1919 that the proceedings of those dates were only preliminary and conditional upon the furnishing of security. In such a case the order does not take effect till the security is furnished [see Subba Naik v. Rama Aiyar 37 Ind. Cas. 892 : 40 M.k 773 : 5 L.W. 261 : (1917) M.W.N. 426 We overrule the preliminary objection On the merits we are of opinion that there is no substance in the appellant's objection to the respondent's appointment, seeing that in the lower Court he withdrew his objection to her being

made a guardian of Court. As to the sufficiency of the security, the lower Court was in the best position to judge whether it was sufficient, and it has declared its readiness to increase the amount of security required if it be found necessary to do so at a later date. There is no ground for us to interfere. The appeal is dismissed with costs. The civil revision petition is also dismissed but without costs.

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