

How are properties of mentally challenged people managed?

According to the Mental Health Act, managers can be appointed to take care of such properties

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Mental disorders sometimes affect people's decision-making capacities. A person of unsound mind is not considered to be competent enough to enter into a contract because he is incapable of understanding the transaction and its probable consequences. A contract of sale like any other contract would be invalid if the consent of either party is given by a person of unsound mind. There have been instances when people have been interested in buying properties that belonged to a person who was mentally challenged or incapacitated. So, what is the status of such a property and the person who would be entitled to enter into a contract for the sale of the property which is held in the name of a person suffering from mental illness? The Mental Health Act, 1987,

makes provisions with respect to taking care of the estate of a person who is mentally challenged - someone who needs treatment for his or her mental disorder. It is important to clarify here that a mentally ill person does not in any way mean or include a mentally retarded person.

Where an alleged mentally challenged person owns property, any of his relatives may come forward with an application to the district court for holding an inquiry regarding his mental condition for the appointment of someone to manage his or her property. On the receipt of such an application, the concerned district court within the local limits of whose jurisdiction the mentally ill person resides, takes appropriate steps for initiating a judicial inquiry regarding the mental condition of the alleged mentally challenged person.

After conducting such an investigation, in case the district

court or the collector of the district confirms that the person is mentally challenged and incapable of managing the properties, it can appoint a suitable person as a manager for the property in question.

The manager appointed has the same powers with regard to the management of the property of the mentally challenged owner would have enjoyed. The manager has the power to execute conveyance on behalf of the owner after obtaining prior permission of the court. In case the manager wishes to execute mortgage or lease of such property for more than five years, then he has to obtain an order from the court before signing the mortgage deed/lease deed in lieu of the mentally ill person.

In a situation, where a person enters into a contract to sell the property owned by him and is later unable to fulfil the contract owing to his mental illness; the court may direct the



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appointed manager to do fulfil such incomplete contract. The manager is bound to act according to the directions of the court that appointed him. However, a manager can only manage the individual property of the mentally challenged person and cannot be appointed for joint family property.

To sum up, any sale of property which belongs to a person who has mental illness is per

se illegal. The mentally infirm person is unable to understand it and is incapable of forming a rational judgement about how it would affect his interest. Any contract with respect to such a property can be entered into by the manager who has been duly appointed and given directions by the district court for the same. It is mandatory to obtain the order of the concerned district court before

anyone enters into any contract with respect to the property owned by a person suffering from mental illness.

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