

# Making managers accountable

In part 2 of our series on the mentally challenged, find out how courts keep an eye on their assets

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The previous column outlined the background and scope of the Mental Health Act with respect to taking care of the estate of a person who is mentally ill. As discussed earlier, on receiving an application from any of the relatives of the person allegedly suffering from mental illness, the district court starts an investigation to assess the mental health of the person concerned. Upon verification that

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the person is actually mentally challenged, the district court appoints a person to manage the properties belonging to him or her. There are, however, a number of questions about the powers of the manager so appointed by the court and its duty towards the management of the property of the mentally challenged owner.

Each person appointed as the manager is required to furnish a bond, the sum of which is specified by the appointing authority. Furthermore, a manager may

be directed by the appointing authority to furnish sureties too. This is done to safeguard the interest of the owner and to make the manager accountable for all receipts from the property.

It is clear from the Act as well as from various decisions of the courts in this regard that any transaction with respect to the property of the mentally challenged person must be for his or her benefit.

The manager must make an application to the district court in order to seek prior permission of the court before he creates any charge or mortgage or transfers of such property by sale or any other means. The court may grant him permis-

sion and may also impose conditions or restrictions for the same. The manager is bound to comply with the directions of the court as any act against such directions/ conditions/ restrictions would be an act against the authority of court and the manager would be guilty of contempt of court.

The courts take utmost care to protect the interests of mentally challenged people. The manager has to furnish inventory and annual accounts in respect of the property in question to the appointing authority. If any relative of the mentally challenged person, or the collector points a finger at the accuracy of such inventory or statement or annual accounts, by the way of making a petition to the district court then the court may summon the manager and enquire summarily about it. The court may further use its discretion to make such order as it thinks fit and/or can also refer the petition to its subordinate court.

The manager, therefore, would be facing proceedings if the accuracy of inventory or accounts is dubious and is questioned in the court of law.

The Act makes further pro-

visions to safeguard the interests of the mentally ill person. There is a restriction on the sums which are received by the manager for the estate. All the money received by the manager which is in excess of the amount required for expenses of the mentally challenged ill person or for managing his properties are to be deposited in the public treasury or are to be invested in the manner as directed by the court.

Any relative of the mentally challenged ill person after obtaining permission of the court can sue for an account from any manager appointed by the court. The manager has to provide accounts for the property under his management or any other property received by him in lieu of the property that belonged to the mentally ill person. The court may also remove the manager appointed by him.

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## PROCEDURE FOR APPOINTING MANAGERS

- On receiving an application from any of the relatives of the person suffering from mental illness, the district court launches an investigation to assess the mental health of the person concerned
- Upon verification that the person is actually mentally challenged, the district court appoints a person to manage the properties belonging to him or her
- Each person appointed as the manager is required to furnish a bond, the sum of which is specified by the appointing authority
- A manager may also be directed by the appointing authority to furnish sureties to safeguard the interest of the mentally challenged owner and to make the manager accountable