



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 7713 OF 2025

IN

SUIT NO. 1215 OF 2019

Jitendra Gorakh Megh

...Applicant/Plaintiff

V/s.

Gorakh Govind Megh & Anr.

...Defendants

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Mr. Jitendra Gorakh Megh, Applicant/Plaintiff in-person

Mr. Aditya Sharma a/w. Hitesh Gupta a/w. Vipul Makwana and  
Mohiteshwari Prasad for Defendant

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CORAM : FARHAN P. DUBASH, J.

DATE : 17<sup>th</sup> FEBRUARY 2026

**Oral Judgment :**

1. The present Interim Application (**IA**), preferred under Section 105 of the Mental Healthcare Act, 2017 (**MHA**), has been filed by the Applicant/Plaintiff seeking the appointment of an independent Medical Board to examine and assess the mental condition of Defendant No. 1, who is the Applicant's father and who is alleged to be suffering from mental illness. At the outset, it is pertinent to note that several disputes, both civil

and criminal are presently pending between the Applicant and Defendant No. 1 before various fora across Maharashtra and beyond. The captioned suit is one such proceeding, wherein the Applicant seeks a one-third share in the coparcenary/ancestral properties of Defendant No. 1.

2. By way of the present IA, the Applicant asserts that his father, Defendant No. 1 suffers from mental illness and, on that basis, challenges his mental competency and capacity to contest the captioned suit. In support of this contention, the Applicant relies upon a medical certificate issued by Metrocure Multispecialty Clinic and Diagnostic Centre **(the Medical Certificate)**. The Applicant further alleges that he has been deliberately denied access to his father by the Applicant's step-mother, who is a medical doctor by profession and with whom Defendant No. 1 presently resides. In the aforesaid circumstances, the Applicant has preferred the present IA. The present IA thus raises an important question - **Whether the statutory mechanism intended to safeguard the rights and welfare of persons with mental illness can be invoked by a litigant as a tool to challenge the legal capacity of an adversary?**

3. The Applicant, Mr. Jitendra Gorakh Megh, appears in-person. He places reliance on the Medical Certificate and contends that the observations and diagnosis recorded therein clearly establish that his father,

Defendant No. 1 suffers from mental illness. Placing reliance on Section 105 of the MHA, the Applicant submits that by reason of such mental illness, Defendant No. 1 is not in a position to meaningfully contest the pending legal proceedings that the Applicant has instituted against him. In the circumstances, the Applicant urges that an independent Medical Board ought to be constituted to examine Defendant No. 1 and render a determination in that regard. On these grounds, the Applicant presses for the reliefs sought in the present IA.

4. *Per contra*, Mr. Aditya Sharma, learned Counsel appearing on behalf of Defendant No. 1, vehemently refutes the allegations levelled in the present IA. He submits that Defendant No. 1 does not suffer from any mental illness or incapacity, whether as alleged or otherwise, and that the assertions made by the Applicant in that regard are false and untenable. At the outset, Mr. Sharma submits that the present IA constitutes a gross abuse of the process of law and is not maintainable, and accordingly, presses for its dismissal.

5. He draws the Court's attention to Interim Application (L) No. 34827 of 2025, previously filed by the Applicant before this Court seeking reliefs identical to those sought in the present IA, which came to be unconditionally withdrawn by the Applicant, as recorded in the order dated 17<sup>th</sup> November 2025. He accordingly submits that having unconditionally

withdrawn the said Interim Application, the Applicant is now estopped and/or otherwise barred in law from maintaining the present IA and reagitating the same reliefs thereunder.

6. Without prejudice to the foregoing, Mr. Sharma further submits that the reliefs sought in the present IA are not maintainable under Section 105 of the MHA, inasmuch as, the said provision does not contemplate or permit an application being preferred against a third party, more so in the context of subsisting adversarial litigation between the parties. He further submits that the Medical Certificate sought to be relied upon by the Applicant does not, on a fair reading, disclose or establish any mental incapacity on the part of Defendant No. 1, and that the assertions made by the Applicant in that regard are false and misconceived. On these grounds, Mr. Sharma reiterates the prayer for dismissal of the present IA.

7. Having heard the parties at some length and having perused the material placed on record, it would be advantageous, before adverting to the provisions of Section 105 of the MHA, to trace the legislative history and appreciate the context in which the said provision came to be enacted.

8. The earliest legislative framework governing mental illness in India was the Indian Lunacy Act, 1912 (**the Lunacy Act**), enacted during the colonial era. The Lunacy Act defined a "*lunatic*" as "*a person who is an idiot or a*

*person of unsound mind.*" The said enactment provided for the treatment and care of such persons in asylums; however, it simultaneously criminalised lunacy by conferring upon the police the power to arrest persons whom they had reason to believe were lunatics. The Lunacy Act further prescribed procedures for the reception, detention, and management of lunatics within such asylums. This approach reflected the prevailing perception of the era, wherein persons suffering from mental illness were regarded as a danger to society and as being incapable of coexisting alongside the general populace.

9. The Lunacy Act was subsequently succeeded by the Mental Health Act, 1987 (**the 1987 Act**), which, as its Preamble sets out, was enacted to "*consolidate and amend the law relating to the treatment and care of mentally ill persons, to make better provision with respect to their property and affairs and for matters connected therewith or incidental thereto.*" Under the 1987 Act, a "*mentally ill person*" was defined to mean "*a person who is in need of treatment by reason of any mental disorder other than mental retardation.*" The 1987 Act thus reflected a discernible shift in societal outlook towards persons affected by mental illness. Its underlying intent was to dispel the stigma historically attached to mental illness and to acknowledge that, if detected at an early stage, such conditions were amenable to treatment and cure. Although the 1987 Act represented a significant advancement over the Lunacy Act, its scope remained confined largely to the establishment and

regulation of psychiatric hospitals and psychiatric nursing homes for the treatment of mentally ill persons.

10. It was with the enactment of the Mental Healthcare Act, 2017 that the legislature, for the first time, expressly acknowledged and sought to protect the rights of persons with mental illness. This is evident from the Preamble to the MHA, which reads thus:

*"An Act to provide for mental healthcare and services for persons with mental illness and to protect, promote and fulfill the rights of such persons during delivery of mental healthcare and services and for matters connected therewith or incidental thereto."*

11. The legislative intent underlying the MHA is further reinforced by the Mental Healthcare (Rights of Persons with Mental Illness) Rules, 2018, which envisage a comprehensive framework for the rehabilitation and reintegration of persons with mental illness, while also securing their entitlement to legal and medical rights. Taken together, the MHA and the Rules framed thereunder reflect a legislative framework that is distinctly welfare-driven, anchored in the preservation of individual autonomy, and oriented towards the protection and empowerment of persons with mental illness.

12. Under the MHA, the term "*mental illness*" is defined under Section 2(1)(s) to mean:

*"a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, mental conditions associated with the abuse of alcohol and drugs, but does not include mental retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by sub-normality of intelligence."*

13. Significantly, Section 2(1)(o) of the MHA defines "*mental healthcare*" to include:

*"analysis and diagnosis of a person's mental condition and treatment as well as care and rehabilitation of such person for his mental illness or suspected mental illness."*

14. A conjoint reading of the aforesaid provisions reveals that the MHA does not merely provide for the treatment and care of persons suffering from mental illness, but extends its protective ambit to encompass their rehabilitation as well. Of equal significance is the fact that the MHA expressly recognises the capacity of persons with mental illness to make informed decisions with respect to their own treatment, a recognition that is consistent with the autonomy-preserving ethos that permeates the statute as a whole.

15. Therefore, on a conspectus of the provisions of the MHA, it is manifest that the said enactment constitutes a rights-based framework of mental healthcare, conceived and structured with the primary objective of protecting and empowering persons with mental illness. The evolution of India's mental health law from the Lunacy Act through the 1987 Act to the

MHA marks a paradigm shift from a custodial, colonial framework, preoccupied with public safety and the confinement of persons deemed lunatic, to a rights-based, patient-centric regime, grounded in the constitutional values of dignity and autonomy. Whereas the Lunacy Act concerned itself predominantly with the reception, detention, and management of lunatics in asylums, with little to no recognition of individual rights, the MHA reflects a fundamentally different legislative philosophy, one that is aligned with contemporary constitutional values and international human rights standards, recognises mental healthcare as a justiciable legal right, and accords primacy to the diagnosis, treatment, and rehabilitation of persons with mental illness.

16. Having traced the legislative history and framework of the MHA, it is now necessary to advert to Section 105 thereof, which is the provision directly invoked by the Applicant in the present IA. Section 105 governs the course of action to be adopted by a court during any judicial process where proof of mental illness is produced and the same is disputed by the other party. For ease of reference, Section 105 is reproduced hereunder:

**"105. Question of mental illness in judicial process –** *If during any judicial process before any competent court, proof of mental illness is produced and is challenged by the other party, the court shall refer the same for further scrutiny to the concerned Board and the Board shall, after examination of the person alleged to have a mental illness either by itself or through a committee of experts, submit its opinion to the court.*"

17. A bare perusal of Section 105 reveals that the language employed therein is unambiguously mandatory in character. Upon proof of mental illness being produced and contested before it, a court is duty-bound to refer the matter to the Mental Health Review Board constituted under the MHA for further scrutiny. The Board, upon such reference, is equally obligated to examine the person alleged to be suffering from mental illness, either by itself or through a committee of experts and thereafter submit its opinion to the court.

18. This, however, gives rise to a pertinent question – who may adduce proof of mental illness before a court for the purposes of Section 105? In this context, it is significant to note that Section 105 is situated within Chapter XIII of the MHA, which bears the heading "*Responsibilities of Other Agencies*." A perusal of Chapter XIII reveals that the legislature has grouped the following provisions thereunder:

*“ (i) Section 100 — Duties of police officers in respect of persons with mental illness;*

*(ii) Section 101 — Report to Magistrate of person with mental illness in private residence who is ill-treated or neglected;*

*(iii) Section 102 — Conveying or admitting person with mental illness to a mental health establishment by a Magistrate;*

*(iv) Section 103 — Prisoners with mental illness; and*

*(v) Section 104 — Persons in custodial institutions. ”*

19. Each of the provisions enumerated under Chapter XIII casts a duty upon the respective agencies to forthwith refer a person suspected to be suffering from mental illness to a mental health establishment for treatment. A analogous duty is cast upon a court under Section 105 upon proof of mental illness being adduced before it. What is implicit in a collective reading of these provisions, however, is that their underlying objective is the protection of the rights of persons with mental illness not the creation of a mechanism that may be weaponised by a party to gather proof of mental illness against an adversary with a view to securing a tactical advantage in subsisting litigation.

20. To permit such a course of action would be to arm unscrupulous litigants with the provisions of the MHA, including Section 105, as instruments of harassment rather than protection. Taken to its logical conclusion, such an interpretation would open the floodgates to a situation where every contesting party invokes Section 105 against his counterpart, reducing a welfare-driven statutory provision to a tool of litigation strategy, a consequence that would be wholly antithetical to the legislative intent of the MHA and would have far-reaching and harmful ramifications for the administration of justice.

21. In consonance with the legislative intent as captured in its Preamble, the MHA is a rights-based framework conceived for the protection,

diagnosis, treatment, and rehabilitation of persons with mental illness. It follows, therefore, that Section 105 is intended to operate as a shield for the protection of such persons and not as a sword to be wielded against them by an adversarial party for collateral purposes.

22. Reverting to the facts of the present case, it is evident that the Applicant has sought to invoke Section 105 of the MHA against his own father, Defendant No. 1, with the express object of establishing that Defendant No. 1 lacks the mental capacity to contest the captioned suit, which has been instituted by the Applicant himself seeking partition of ancestral/coparcenary property. It is undisputed that the captioned suit is actively contested by Defendant No. 1.

23. In these circumstances, it is ex facie apparent that the Applicant's invocation of Section 105 is not motivated by any desire to protect or safeguard the rights of Defendant No. 1, but is, on the contrary, a calculated attempt to deploy the said provision as an instrument of litigation strategy to secure a decisive advantage over Defendant No. 1 in the pending proceedings. Such an invocation strikes at the very root of the legislative intent underlying the MHA and, in particular, Section 105 thereof, as elaborated hereinabove. As discussed above, Section 105 is intended to operate as a shield for the protection of persons with mental illness and cannot be permitted to be wielded as a sword against them by an adversarial

party. The present IA, being a plain attempt to do precisely that, cannot be countenanced and is liable to be dismissed on this ground alone.

24. Notwithstanding the foregoing, and without prejudice thereto, the Medical Certificate relied upon by the Applicant, which forms the very foundation of the present IA does not, on a fair reading, bear out his contention that Defendant No. 1 suffers from mental illness. The Medical Certificate merely records that Defendant No. 1 is a diabetic patient who experiences hypoglycaemic episodes following insulin administration, manifesting in transient symptoms such as delusions, confusion, forgetfulness, and perspiration. Significantly, the Medical Certificate itself acknowledges that these symptoms are temporary in nature and resolve upon restoration of normal blood glucose levels.

25. It is well-settled that episodic and reversible symptoms arising from an underlying metabolic condition cannot, prima facie, be equated with or construed as mental illness within the meaning of Section 2(1)(s) of the MHA. As noted hereinabove, "*mental illness*" under the MHA connotes a substantial and persistent disorder of thinking, mood, perception, orientation, memory, judgment, behaviour, or the capacity to recognise reality or meet the ordinary demands of life, of the kind associated with conditions such as schizophrenia, bipolar disorder, or dementia. The transient and metabolically-induced symptoms recorded in the Medical

Certificate fall manifestly short of this threshold and cannot, by any reasonable construction, be regarded as constituting mental illness within the contemplation of the MHA.

26. It is further material to note that Defendant No. 1 does not himself claim to be suffering from any mental illness. On the contrary, he strenuously disputes the said allegation. In such a contentious backdrop, allegations of mental illness levelled by one party against another, in the context of adversarial litigation are required to be scrutinized with utmost circumspection. In the absence of any cogent or reliable medical material establishing the existence of a mental illness within the meaning of Section 2(1)(s) of the MHA, this Court is unable to accept the Applicant's contention in that regard. The Medical Certificate, for the reasons elaborated hereinabove, falls well short of constituting "*proof of mental illness*" within the contemplation of Section 105 of the MHA. Consequently, the Applicant has failed to produce the requisite proof of mental illness on the part of Defendant No. 1, and the present IA must fail on this ground as well.

27. Without prejudice to the foregoing, the present IA is independently liable to be rejected on an additional ground. It is borne out from the record that the Applicant had previously filed Interim Application (L) No. 34827 of 2025 seeking reliefs substantially identical to those sought in the present IA, which came to be unconditionally withdrawn without any

liberty to file a fresh application. The present IA neither discloses nor pleads any new facts or changed circumstances that would justify a second invocation of the same reliefs. In view of such unconditional withdrawal, the Applicant is estopped in law from reagitating the same reliefs by way of the present IA, and cannot be permitted to do so. To hold otherwise would be to render the unconditional withdrawal wholly nugatory and to countenance an abuse of the process of this Court.

28. In the circumstances enumerated hereinabove, the present IA stands disposed of in terms of the following order:

**:: ORDER ::**

- (i) The present Interim Application stands dismissed.
- (ii) There shall be no order as to costs.

**( FARHAN P. DUBASH, J. )**

Jyoti Pawar

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