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SJC-12143

GUARDIANSHIP OF DUKU LADO.

November 7, 2017.

Supreme Judicial Court, Superintendence of inferior courts.
Probate Court, Guardian. Practice, Civil, Guardianship proceeding. Guardian.

The petitioner, Betty Hinds, appeals from a judgment of a single justice of this court denying her petition pursuant to G. L. c. 211, § 3. We affirm.

In her petition, Hinds asked the court to stay an order of the Suffolk Probate and Family Court appointing a temporary guardian for her adult son, Duku Lado. In denying the petition, the single justice noted that Hinds had already sought the same relief in the Appeals Court and that a single justice of that court had denied the request without prejudice to Hinds first seeking a stay in the trial court. Hinds instead filed her G. L. c. 211, § 3, petition. Relief pursuant to G. L. c. 211, § 3, is available only in exceptional circumstances and when no other remedy is available. Here, the single justice denied the petition essentially on the basis that Hinds did have an adequate alternative remedy -- that is, to seek a stay in the trial court and then, if the request were denied, to challenge that denial, or perhaps make a fresh request for a stay, in the Appeals Court.

In her appeal from the single justice's judgment, Hinds no longer focuses on her motion to stay, but rather asks the court to vacate the trial court order appointing the temporary guardian. As far as we can tell from the record that was before the single justice as well as the record that is before us, both

of which are difficult to discern, Hinds did not raise this issue before the single justice, and we therefore need not consider it. See Carvalho v. Commonwealth, 460 Mass. 1014, 1014 (2011), and cases cited. Even if we were to consider it, however, Hinds would fare no better. As with the motion to stay, G. L. c. 211, § 3, does not provide a means for Hinds to pursue the relief that she seeks in the circumstances presented. Rather, she can adequately challenge any adverse rulings regarding the guardianship in the ordinary course in the Appeals Court, whether pursuant to G. L. c. 231, § 118, first par., with respect to any interlocutory rulings of the trial court, or by way of an appeal from any final, appealable orders and judgments. This case, particularly on the materials that have been put before us, does not present an exceptional circumstance that requires this court to exercise our extraordinary power of general superintendence pursuant to G. L. c. 211, § 3, in the face of these perfectly adequate alternatives.

Judgment affirmed.

Betty Hinds, pro se, submitted a brief.