

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.07.2016

CORAM

THE HON'BLE MR. JUSTICE T.MATHIVANAN

C.M.A.No.2391 of 2015

Thangavel Gounder

... Appellant

Vs.

Nil

... Respondent

Civil Miscellaneous Appeal filed under Section 76 of the Mental Health Act, 1987 against the judgment and decree dated 15.07.2015 and made in M.H.O.P.No.82/2013 on the file of the Principal District Judge, Coimbatore, Coimbatore District.

For Appellant : Mr.C.Veeraraghavan

JUDGMENT

Impugning the order dated 15.07.2015, the appellant herein who is the petitioner in M.H.O.P.No.82 of 2013 on the file of the learned Principal District Judge, Coimbatore, stands before this Court with this appeal.

2. Heard Mr.C.Veeraraghavan, learned counsel appearing for the appellant/petitioner. No person is arrayed as respondent.

3. The appellant herein had filed a petition in M.H.O.P.No.82 of 2013 under Sections 50, 51, 52, 53, 54 and 61 of the Mental Health Act, 1987 seeking the following reliefs:

- 1.to appoint the petitioner as guardian to his brother Mr.Balakrishnan, who is suffering from mental illness; and
- 2.to appoint the petitioner as the guardian/manager of the properties more fully described in the schedule belonging to Mr.Balakrishnan, who is suffering from mental illness.

4. After hearing the petitioner, the learned Principal District Judge, Coimbatore, had found that based on the evidence of PW1-Dr.S.Gunamani as well as Ex.P1-Medical Certificate issued by him, the said Balakrishnan is under the condition that he is unable to maintain himself and that his mental growth as well as the status was assessed at 28%. The learned District Judge had also found that apart from the petitioner, being the brother of Mentally retarded person Mr.Balakrishnan, yet another person one Venkatachalapathy is also there, but the appellant/petitioner

had not come forward to appoint the above said person as guardian to his brother Balakrishnan, who is suffering from mental illness, and since the purpose itself was suspected, the learned District Judge had proceeded to dismiss the said petition.

5. Today when the appeal is taken up for hearing, Mr. Veeraraghavan, learned counsel for the petitioner has submitted that the impugned order might be set aside and the petition itself might be remitted back to the file of the learned Principal District Judge, Coimbatore with a direction to permit the appellant/petitioner to implead his another brother Venkatachalapathy as a party respondent and dispose of the main petition in M.H.O.P.No.82 of 2013 after inviting objection from the said Venkatachalapathy within a prescribed period, which may be determined by this Court.

6. This Court has considered the submissions made by Mr.Veeraraghavan and finds that it may be better in the interest of justice as well as for the purpose of taking a fair decision, the impugned order might be set aside and the petition itself might be remitted back to the Principal District Judge, Coimbatore as afore stated.

In the result, the Civil Miscellaneous Appeal is allowed and the impugned order dated 15.07.2015 is set aside and the petition in M.H.O.P.No.82 of 2013 is remitted back to the learned Principal District Judge, Coimbatore granting liberty to the petitioner to implead his another brother one Venkatachalapathy as a party respondent in the main petition and after the completion of this process, the Principal District Judge is directed to dispose of the petition M.H.O.P.No.82 of 2013 within a period of three months from the date of receipt of a copy of this order in the manner known to law. However, there shall be no order as to costs.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gpa

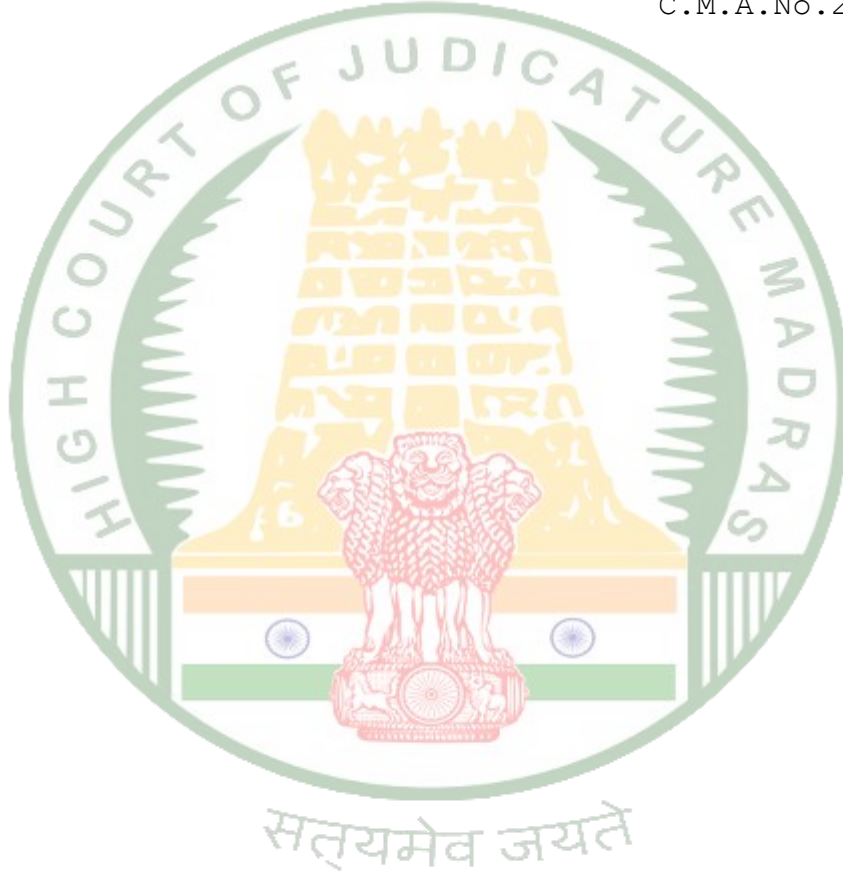
To

The Principal District Judge
Coimbatore, Coimbatore District

+1cc to M/s. C. Veeraraghavan, Advocate, S.R.No.39457

SAI (CO)
EU(21/10/2016)

C.M.A.No.2391 of 2015



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