

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.4238 of 2016

Sayardevi Chaudhary

.. Petitioner

Vs.

1.State of Tamil Nadu,
represented by its Secretary,
Department of Health & Family Welfare,
Secretariat, Chennai-600 009.

2.The District Collector,
Chennai District,
Chennai.

3.Tahsildar,
Taluk Office,
Aminjikarai, Chennai.

.. Respondents

The writ petition is filed under Article 226 of the Constitution of India praying for the issue of a writ of mandamus to appoint the petitioner, Sayardevi Chaudhary, as a guardian of her husband Mr.Sumer Singh Chaudary, residing at R-Block, No.77, 2nd Floor, 13th Street, Anna Nagar, Chennai-600 040 and also to appoint the petitioner as the Manager of his properties and his proprietorship concern and to permit the petitioner to sale the immovable properties,

a. At Plot No.3868, R-Block, No.77, 13th Street, Anna Nagar, Chennai-600 040 comprised in T.S.No.194 of Mullam Village, Block No.2 measuring about 1600 sq.ft. and 1323.16 sq.ft. Undivided share that registered as Doc.No.4616/2006 on the file of the Sub-Registrar Anna Nagar,

b. A vacant land of 12 cent in Survey No.589B/2 that registered as Doc.No.2317/2008 on the file of the Sub Registrar Arakkonam,

c. A vacant land in Survey No.26/1 that registered as Doc.No.3564/2006 on the file of the Sub Registrar, Bellari, Karnataka State,

and to proceed with her husband's proprietorship concern namely "Surface Cargo Movers" so that petitioner may be permitted to close the Cash Credit Account in IDBI Bank in Acc.No.7504655100000037 which account is standing in the name of "Surface Cargo Movers" and to operate husband's IDBI Bank Current Account in Acc.No.045102000031091 in which Account Petitioner is the nominee of her husband and to operate her husband's IDBI Bank Loan Account in Acc. No.0005675100055107 so that petitioner may be permitted to close the House Loan and petitioner may sale the house and to use the proceeds from the same towards the up keep and the treatment of her husband, Mr.Sumer Singh Chaudary, and pass such further or other orders as this Hon'ble Court may deem fit and necessary and thus render justice.

For Petitioner : Mr.M.Sheela

For Respondents : Mr.R.Vijayakumar, AGP

ORDER

Heard the learned counsels, appearing on behalf of the petitioner, as well as the respondents.

2 This writ petition had been filed, praying that this Court may be pleased to issue a Writ of Mandamus, to appoint the petitioner, as a guardian of her husband, namely Sumer Singh Chaudhary, and to appoint her, as the Manager of his properties and his proprietorship concern and to permit the petitioner to sell the immovable properties mentioned therein.

3 This Court, by an order, dated 9.2.2016, had directed the third respondent to visit the residence of the petitioner to satisfy himself, with regard to the physical and mental condition of the husband of the petitioner and to file a report, within a period of two weeks from the date of the receipt of a copy of the said order.

4 The third respondent has filed a report before this Court, dated 29.06.2016, which reads as follows :

"2.I submit that in obedience to the directions issued by the Hon'ble High Court of Madras dated 09.02.2016 in W.P.No.4238/2016, I have visited the residence of the petitioner at "R" Block, No.77, 2nd Floor, 13th Street, Anna Nagar, Chennai-600 040, along with

Dr.V.Ramakrishnan, Assistant Professor of Neurology, Institute of Neurology, Madras Medical College and Rajiv Gandhi Government General Hospital, Chennai-600 003 on 24.03.2016.

3.I submit that I have visited the above said residence along with the Revenue Inspector and the Assistant Professor at 10.30 A.M. on 24.03.2016. I have witnessed that few days after the shaven face of a male fully dressed in a wooden cot without any conscious. His legs are slightly in bended position. A tube has been inserted in his nose. He is having ordinary breathing. His eyes are in a particular position without any change. I submit that the writ petitioner has stated that his name is Thiru Sumar Singh Chaudary and his age is about 55 years.

4.I submit that the writ petitioner has stated that after the operation undertaking to his husband at Apollo Hospital at Teynampet, Chennai on 20.04.2015, he becomes unconscious. His conscious has never returned till date. He was doing business under the name and style of M/s.Surface Cargo Movers i.e., logistic transporter. He is the owner of the concerned and doing all transactions till he gets admitted in the Hospital. He is taking care by the writ petitioner alone and there is no separate attendant. The Medical Officer is visiting at regular periodicity to check the health condition of Thiru Sumar Singh Chaudary. The family of the writ petitioner is reported to having been struggling financially to meet the medical expenses of her husband besides for family routine expenses.

5.I submit that the Assistant Professor of Neurology after examining the husband of the petitioner in his house has furnished a report detailing the condition of the individual and concluded his current neurological status as permanent vegetative state.

6.I submit that the medical report of the Assistant Professor of Neurology, Institute of Neurology, Madras Medical College and Rajiv Gandhi Government General Hospital, Chennai-600 003, dated: 31.03.2016 before the Hon'ble High Court of Madras.

7.I respectfully submit that I have complied the order of this Hon'ble Court dated 09.02.2016. Further this affidavit and along the report of government doctor, Chennai may be accepted in the above writ petition."

5 The learned counsel appearing on behalf of the respondents had also placed before this Court a report submitted by Dr.V.Ramakrishnan, Assistant Professor of Neurology, Institute of Neurology, Madras Medical College and Rajiv Gandhi Government General Hospital, Chennai. The said report, dated 31.3.2016, reads as follows :

"I.History of the patient illness :

On 20/04/2015, patient was underwent neck surgery under general Anaesthesia and not regained his consciousness and become persistently unconscious due to hypoxic ischemic encephalopathy and intractable seizures. Since 20/04/2015 to till date 24/03/2016 patient is in a state of unconsciousness and Glasgow coma scale was E2.3M3Vt on discharge 28/07/2015.

II.Examination of the patient : 24/03/2016

Vital signs - stable
Spontaneous eye opening present
Verbal response to deep painful stimulus - No speech
Papillary reflex - present
Oculo cephalic reflex - not able to done due to neck surgery and neck spasm.
Corneal reflex Present
Respiration regular
Spascitiy of all four limbs
All deep tendon reflex increased
Plantar reflex bilateral extensor
Myclonic jerks present infrequently
Glasgow coma scale - E4V1M2

III. Patient fulfills the following criteria of persistent vegetative state:-

* No evidence of awareness of self or environment and an inability to interact with others.

* No evidence of sustained, reproducible, purposeful, or voluntary behavioural responses to visual, auditory, tactile, or noxious stimuli.

* No evidence of language comprehension or expression.

* Intermittent wakefulness manifested by presence of sleep-wake cycles.

* Sufficiently preserved hypothalamic autonomic functions to permit survival with medical and nursing care.

* Bowel and bladder incontinence.

* Variably preserved cranial-nerve and spinal reflexes.

(US Multi-society Task force on Persistent Vegetative State guidelines)
Current neurological status of patient is
PERMANENT VEGETATIVE STATE."

6 In view of the averments made in the report filed by the third respondent and in view of the report of Dr.V.Ramakrishnan, Assistant Professor of Neurology and taking into consideration the peculiar facts and circumstances of the case, this Court finds it appropriate to appoint the petitioner, as the guardian of her husband, Sumer Singh Chaudhary, for the purpose of dealing with the immovable properties, standing in the name of the husband of the petitioner and with regard to the management of the Proprietorship concern, namely "Surface Cargo Movers", as prayed for by the petitioner, in the present writ petition. However, it is made clear that this order, passed by this Court, will not stand in the way of the legal heirs of the husband of the petitioner, or the other persons concerned, if any, to question the transactions that may be performed by the petitioner, on behalf of her husband, namely Sumer Singh Chaudhary. The writ petition is ordered, accordingly. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
State of Tamil Nadu,
Department of Health & Family Welfare,
Secretariat, Chennai-600 009.

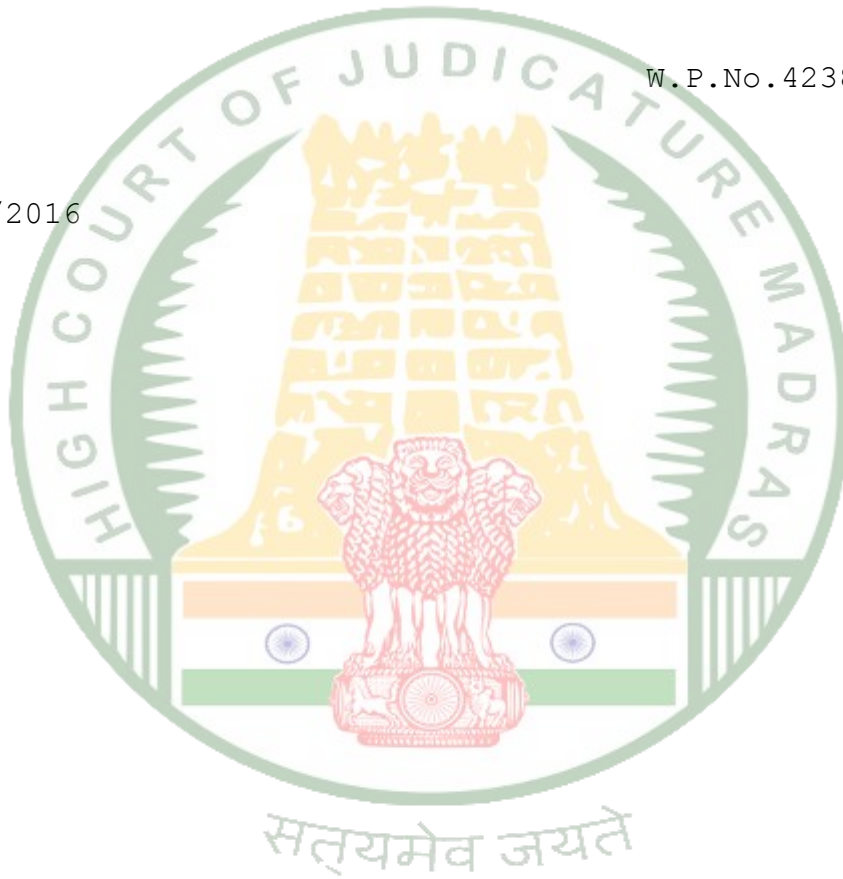
2.The District Collector,
Chennai District,
Chennai.

3.Tahsildar,
Taluk Office,
Aminjikarai, Chennai.

2cc to M/S.M.Sheela, Advocate Sr.36208
+1cc to the Government Pleader Sr.36674

W.P.No.4238 of 2016

rp[col]
srg 22/07/2016



WEB COPY