

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 26TH DAY OF FEBRUARY 2018

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

O.P. No.26 of 2018

In the matter of Guardian and
Wards Act, 1890

And

In the matter of minors
S.Ragha Malligha and
M.Khaarthik

S.Mohana,
w/o.Late Mahendran,
No.15, Nethaji Colony,
1st Cross Street,
Velachery, Chennai-600 042.

... Petitioner

Original Petition praying that this Hon'ble Court
may be pleased to pass a judgment and decree as under:-

a) that the petitioner Mrs.S.Mohana may be appointed
as the guardian of the person and property of the minors in
the property situate at No.15, Nethaji Colony, 1st Cross
Street, Velachery, Chennai-600 042 comprised in Survey
No.615 as per patta Survey No.615/9 of Velachery Village,
Mambalam-Guindy Taluk, Chennai District, measuring an
extent of 1109 1/4 sq.ft. morefully described in the
schedule hereunder.

b) that the petitioner may be permitted to raise loan
over the interest of the minors M.Ragha Malligha and
M.Khaarthik the schedule mentioned property morefully
described in the schedule hereunder.

This Original Petition coming on this day before this court for hearing the court made the following order:-

This Petition has been filed under Sections 3 and 7 to 10 of the Guardians and Wards Act, 1890 read with Order XXI Rule 2 and 3 of Original Side Rules, to appoint the petitioner as the guardian of the person of Minors 1. M.Ragha Malligha, aged 12 years, 2. M.Khaarthik, aged 5 years and to manage the property of the minors.

2.The petitioner is the mother and natural guardian of the Minors M.Ragha Malligha and M.Khaarthik. Minors' father passed away on 18.09.2016. The mother of the deceased pre-deceased him. The father of the minors' is the absolute owner of the land and building situated at Plot No.15, Nethaji Colony, 1st Cross Street extension, Velachery, Chennai, comprised in survey No.615 as per patta Survey No.615/9 Velachery Village, Mambalam, Guindy Taluk, Chennai District measuring an extent of 1109 $\frac{1}{4}$ Sq.ft. The approximate value of the scheduled mentioned property and the deceased interest in the said property is Rs.75,00,000/- (Rupees Seventy Five Lakhs Only). After the demise of petitioner's husband Mahendran, the minors have been living under the care and custody of the petitioner.

3. The Petitioner S.Mohana, the proposed guardian is the mother and natural guardian of the minors. The minors child are under the care and custody of the petitioner. During the life time of Late Mahendran, he had raised loan

over the schedule mentioned property on 09.05.2011 and on 23.02.2012 for a sum of Rs.10,00,000/- and Rs.5,00,000/- respectively in favour of REPCO Home Finance Limited. Since the minors are studying 8th std and 1st std in New Prince Matriculation School and the meagre income of the petitioner is not sufficient to meet the Educational expenses and other requirements of the minors. The petitioner had decided to raise further loan of a sum of Rupees Fifteen Lakhs over the property of the minor's share to and in favour of REPCO Home Finance Limited. The petitioner getting herself appointed as the guardian for the person and property of the minors.

4. Petition, seeks direction to appoint the petitioner as the guardian of the person and property of the minors. Further seeking permission to raise loan over the interest of the minors M.Ragha Mallilgha and M.Khaarthik.

5. The petitioner, who examined herself as P.W.1, reiterated the averments made in the petition and filed the following documents viz., Exs.P1 to P12;

Ex.P1 is the original Birth Certificate of P.W.1's daughter M.Raghamalligha who born on 11.11.2004.

Ex.P2 is the computer generated Birth Certificate of P.W.1's minor son M.Khaarthik who born on 30.11.2011.

Ex.P3 is the Computer generated Death Certificate of P.W.1's husband Mahendran who died on 18.09.2016.

Ex.P4 is the photocopy of legal heirship certificate dated 21.02.2017 in respect of P.W.1's husband Mahendran.

Ex.P5 is the photocopy of P.W.1's Voter Identity Card.

Ex.P6 is the photocopy of Family card for the period 2005 - 2009 in respect of P.W.1's husband Mahendran.

Ex.P7 is the photocopy of the sale deed dated 15.02.2002 in favour of P.W.1's husband Mahendran registered as Document No.613 of 2002 at SRO, Velachery.

Ex.P8 is the photocopy of the loan sanction order dated 09.05.2011.

Ex.P9 is the photocopy of agreement relating to deposit of the title deeds dated 13.05.2011.

Ex.P10 is the photocopy of loan sanction order dated 23.02.2012.

Ex.P11 is the online Encumbrance Certificate bearing No.4179/2017 for the period from 01.01.2010 to 14.06.2017 in respect of the schedule mentioned property.

Ex.P12 is P.W.1's declaration of willingness to accept the office of the guardian

of person in respect of P.W.1's minor children.

She has also stated that she has not filed any other petition before any other Court seeking the same relief.

6. Mrs.Devi Shanmugam examined herself as P.W.2, and submits that the minor childrens in the above said OP are under care and custody of the petitioner S.Mohana.

7. Considering the relevant materials and after hearing the arguments, this Court is inclined to allow this petition.

8. In fine, this petition is ordered, by appointing the petitioner as the Guardian of the person and to manage the property of the minors. The petitioner shall execute a Guardian Bond for a sum of Rs.25,000/- in favour of Assistant Registrar O.S.(II), High Court, Madras. The petitioner is permitted to raise loan over the interest of the minors M.Ragha Malligha and M.Khaarthik in the schedule mentioned property.

Sd/.C.V.K.J
26.02.2018

//Certified to be a true copy//
Dated this the day of 2018.

jj 16.03.2018

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.