

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 12.04.2018****CORAM****THE HONOURABLE MR.JUSTICE M.S.RAMESH****W.P. (MD) No.7787 of 2018****WEB COPY**

Dr.O.B.Parameswaran

... Petitioner

vs.

1. The State of Tamilnadu
rep.by its Secretary
Department of Health and Family Welfare
Secreteriat, Fort St.George
Chennai-600 009

2. The District Collector
District Collector Office
Tuticorin

3. The Tahsildar
Tuticorin Town Taluk Office
Tuticorin

... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India to issue a writ of mandamus to appoint the petitioner as guardian of Dr.R.N.Ranjini who is in coma stage and also appoint the petitioner as the Manager of her properties and to permit the petitioner to sell the Schedule I property bearing New Door Nos.5, 6 & 7, North Car Street Extension, Thoothukudi in T.S.No.2443, T.S.Ward No.4, Block 12, land measuring 1247.078 sq.ft., (2.847 cents) with a two story building and Schedule II property bearing New Door Nos.8 & 9, North Car Street Extension, Thoothukudi, in T.S.No.2444, TS Ward No.4, Block 12, land measuring 1526.535 sq.ft., (3.504 cents) with a two story residential building located within the registration district of Thoothukudi and Sub-Registration District of Joint SRO II, Thoothukudi and reinvest in any immovable properties at Madurai.

For Petitioner : Mr.T.R.Janardhanan
and Mr.T.R. Senthil Kumar

For Respondents : Mr.S.Nagarajan
Spl. Govt. Pleader

O R D E R

The petitioner herein is a Doctor by profession, who got married to one Dr.R.N.Ranjini. Out of his own earnings and by availing housing loans, the petitioner herein along with his wife had purchased two properties comprised in T.S.No.2443, bearing new Door Nos.5, 6 & 7 and T.S.No.2444, bearing new Door Nos.8 and 9, North Car Street Extension, Thoothukudi.



2. On 21.11.2012, the petitioner's wife namely Dr.R.N.Ranjini had a sudden episode of ventricular tachycardia, by which she had gone to a state of coma. After her medical condition, Dr.R.N.Ranjini is now under the care and custody of the petitioner herein. In view of the aforesaid properties standing in the name of the petitioner's wife also, the present writ petition has been filed seeking for a declaration to declare the petitioner as a guardian of his wife Dr.R.N.Ranjini for the purpose of managing and otherwise encumbering her properties.

3. I have given careful consideration to the submissions made by the respective learned counsels.

4. According to the learned counsel for the petitioner, the condition of the petitioner's wife is a 100% disability, since she is in a state of coma and as per the medical opinion, she is not likely to improve in the near future. The original disability certificate, dated 14.12.2017, from the Chairman, Medical Board, Government Thoothukudi Medical College Hospital, Thoothukudi, evidences that the condition of the petitioner's wife is non-progressive and not likely to improve and her disability has been opined as a 100% disability. Yet another medical certificate from Sundaram Arulrhaj Hospitals, Tuticorin, dated 19.02.2018, also evidences that the petitioner's wife is bedridden in a stage of coma. There is no provision of law for appointment of the petitioner as a guardian of his wife, who is in a stage of coma, either in the Guardian and Wards Act, 1890 or in the Mental Health Care Act, 2017 (Repeal of the Mental Health Act, 1987). As such, in the normal course, the remedy available to the petitioner would be under the jurisdiction of the Civil Court. Nevertheless, in view of the critical condition in which the petitioner's wife is undergoing and also taking note of the fact that the procedure for appointment of guardian might take a considerable time, it would be appropriate that this Court invokes the power conferred under Article 226 of the Constitution of India for the purpose of securing the ends of justice.

5. It is submitted by the learned counsel for the petitioner that though out of the aforesaid two properties, one property stands in the name of the petitioner's wife and the other one stands in the joint name of the petitioner herein and his wife, the housing loans obtained for procuring these two properties were repaid by the petitioner himself. I have also taken note of the fact that the petitioner herein has been a support throughout for his wife and she is still under his care and custody. While that being so, the petitioner herein would be the appropriate person to act as a guardian for his wife. In view of the fact that the petitioner has settled the housing loan standing in the name of his wife also and has been spending considerable amount for her



treatment, it would be relevant to permit the petitioner to manage and deal with the properties of his wife including the powers to alienate the same.

6. In view of the above observations, the writ petition stands allowed. The petitioner herein, namely, Dr.O.B.Parameswaran is appointed as a guardian of his wife Dr.R.N.Ranjini. In his capacity as a guardian, the petitioner is at liberty to manage the properties standing in the name of his wife Dr.R.N.Ranjini, in T.S.No.2443, bearing Door Nos.5, 6 & 7 and T.S.No.2444, bearing Door Nos.8 and 9, North Car Street Extension, Thoothukudi, including the powers to alienate the same. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To:

1. The Secretary,
Department of Health and Family Welfare,
Secreteriat, Fort St.George,
Chennai-600 009.
2. The District Collector,
District Collector Office,
Tuticorin.
3. The Tahsildar,
Tuticorin Town Taluk Office,
Tuticorin.

+3cc to Mr.T.R.Janardhanan, Advocate Sr.No.60882

KRK

VB/RSK/SAR4/27/04/2018/3P/7C

W.P. (MD) No.7787 of 2018
12.04.2018