



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.11.2018

CORAM :

THE HONOURABLE MRS.JUSTICE V. BHAVANI SUBBAROYAN

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W.P. (MD) No.22875 of 2018

Dhanalakshmi

.... Petitioner

Vs.

The Chairman/District Collector,
Local Level Committee under National Trust Act, 1999
Madurai District,
Madurai.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondent to appoint petitioner Dhanalakshmi W/o.Prabhakaran residing at above address with Aadhar Card No.3404 8413 4838, as Guardian of her husband Mr.Prabhakaran, S/o.Pushparaj for the protection of his person and property.

For Petitioner	: Mr.K.P.Narayanakumar
For Respondent	: Mrs.J.Padmavathy Devi Special Government Pleader

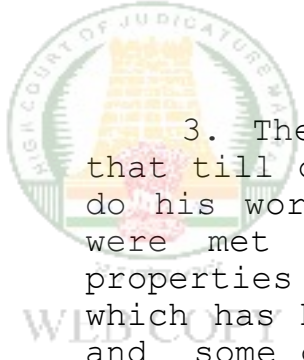
ORDER

The petitioner has filed this writ petition for issuance of writ of mandamus directing the respondent to appoint the petitioner as Guardian of her husband for the protection of his person and property.

2. The learned counsel for the petitioner submitted that though the petitioner is the house wife, having permanent residence at Kallanthri, Madurai District for the sake of business activities of her husband Prabhakaran they were living along with their son at Chennai. On 11.05.2016, the petitioner's husband met with an accident and got admitted at Chettinad Health City hospital, Kalavakkam, Chennai. After providing first aid, the petitioner's husband was advised to be shifted to SIMS hospital, Vadapalani and continued treatment for two months. Several surgeries were done on him and later he was discharged from the hospital and again he was re-admitted at SIMS hospital on 17.11.2016 and after more than one year he was discharged from the hospital on 13.08.2017. In spite of several medical treatment, the petitioner's husband could not be given 100% recovery and he suffered multiple disability and the doctors have opined that the petitioner's husband is in a vegetative state of mind and he is unable to express his feelings and also could not able to move from bed. The petitioner and her son are

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her husband and daily medication physiotherapy and medical nursing are inevitable to retain the life of her husband.



3. The learned counsel for the petitioner further submitted that till date the petitioner's husband is not able to recover and do his work as a normal person. The petitioner's medical expenses were met out partly by selling petitioner's jewels and other properties belonging to her. But the properties of her husband which has been settled on him by settlement deed in the year 2012 and some of the properties has been inherited by him is available, he cannot sell them or mortgage them for obtaining finance for his future medical expenses and day to day medical expenses. She is in acute shortage of money and she needs to save her husband. He further contended that her husband lost his memory and has become mentally ill and he is not able to think and all the vital organs have failed to understand the happenings in the surroundings, including mental retardation characterized by subnormality of intelligence and he is suffering from mental disabilities as mentioned in the National Trust Act 1989.

4. The learned counsel for the petitioner would further contend that as per the Mental Health Act, 1987, if there is Judicial Inquisition alleged regarding mental retardation the petitioner's property enables custody of person and management of his property and the said act was repealed by the new enactment Mental Health Care Act 2017. But the said Mental Health Care Act 2017 does not mention about the judicial inquisition so no such petition can be filed by the petitioner before this Court. Hence as per the National Trust Act, the petitioner has presented an application dated 08.09.2018 before the respondent herein to appoint the petitioner as guardian to maintain the mentally disabled petitioner's husband as well as his property and along with the petition, the petitioner has also filed a consent letter of her son and her mother-in-law, who are the surviving legal heirs of the petitioner's husband. Till then the respondent has not considered the said petition of the petitioner which is causing hardship due to non availability of funds for the day to day medical expenses and there is no other person to help them. Hence the petitioner prays for a direction to the respondent to consider the petitioner's representation dated 08.09.2018.

5. Heard the learned counsel for the petitioner and Mrs.J.Padmavathy Devi, the Special Government Pleader who took notice for the respondent.

6. By way of interim measure, this Court directs the respondent to consider the application of the petitioner dated 08.09.2018 as per law and peruse the materials available along with the applications and if the respondent is satisfied they can issue necessary order and if they are not satisfied they can also get an expert opinion from the Dean, Madurai Medical College Hospital and pass appropriate orders in the said application within a period four weeks from the date of receipt of a copy of this order.



7. The Writ Petition is disposed of with the above direction.
No costs. Post the matter on 18.12.2018 under the caption " For
Reporting Compliance".

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/True Copy/

Sd/-

Assistant Registrar(CS-III)

Sub Assistant Registrar(CS-II)

To

The Chairman/District Collector,
Local Level Committee under National Trust Act,1999
Madurai District,
Madurai.

+1CC to Mr.K.P.Narayanakumar, Advocate, SR.No.95709

W.P. (MD) No.22875 of 2018
16.11.2018

AAV

ES/SKN/RSK/SAR 2/30.11.2018/3P/3C