

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.33279 of 2017
and
W.M.P.No.36708 of 2017

Mrs.T.K.SreelathaPetitioner

Vs

1.The State of Tamil Nadu,
Rep. by the Secretary to Government
Social Welfare Department
Fort St.George
Chennai - 600 009.

2.The Local Level Committee
(Under the National Trust for the
Welfare of persons with Autism,
Cerebral Palsy, Mental Retardation
and Multiple Disabilities Act, 1999)
DMS Complex, Teynampet,
Chennai - 600 086.

3.The District Collector,
Chennai.

4.The District Differently Abled
Welfare Officer,
DMS Complex, Teynampet,
Chennai - 600 086.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Mandamus, directing the respondents to consider

the application dated 08.05.2017 of the petitioner for appointment as Guardian in respect of the property and the person of T.K.Sreekanth, on merits without insisting for Disability Certification from the Government General Hospital, Chennai and appoint the petitioner as Guardian of Mr.T.K.Sreekanth, son of T.K.Sreenivasacharlu in accordance with law.

For Petitioner : Mr.Bharatha Chakravarthy
For M/s.Sai Bharath and Ilan

For Respondents : Mr.I.Sathish,
Additional Government Pleader
for R1 to R4

ORDER

The petitioner seeks for Mandamus directing the respondents to consider for application dated 08.05.2017 for appointing her as guardian in respect of the property and person of Mr.T.K.Srikanth without insisting for disability certificate from the Government General Hospital, Chennai and appoint the petitioner as guardian to said Mr.T.K.Srikanth S/o. T.K.Sreenivasacharlu.

2. The petitioner is the sister of one T.K.Sreekanth. It is stated that while her brother was working as a Software Professional, he got married to one E.Latha and they begotten two daughters. It is further stated that when all the four of them viz., the petitioner's brother and his family members went on a vacation to Nepal and the places around Himalayas,

unfortunately, the flight in which they travelled crashed against the

mountain and in the said accident, the mother of the minor children viz., E.Latha, wife of T.K.Sreekanth died on the spot. It is further stated that the children escaped with grievous injuries while the petitioner's brother suffered severe head injuries and due to lack of oxygen supply to his brain cells, he is in a state of coma ever since the accident. It is stated that the petitioner's brother is lying in such state with 100% physical and mental disability. The petitioner further states that her aged parents are living with her along with those two unfortunate minor children of her brother. Thus, it is stated by the petitioner that she is the only person taking care of her brother and consequently for all practical purpose, she needs guardianship certificate from the concerned authorities to certify that she is the guardian of her brother and his children. Therefore, the petitioner made an application on 08.05.2017 for appointing her as guardian in respect of the property and the person of the said T.K.Sreekanth. However, the said application has not been considered for want of disability certificate from the Government General Hospital, Chennai. Therefore, the petitioner has filed the present Writ petition seeking for a Mandamus directing the respondents to consider her application dated 08.05.2017 for appointing her as the guardian in respect of the property and the person of the said T.K.Sreekanth on merits, without insisting for disability certificate from the Government General Hospital, Chennai.

3. Heard both sides.

4. When this matter was taken up earlier on 04.01.2018, this Court after noticing the fact that the said Mr.T.K.Srikanth has not been physically assessed by a competent person viz., a Psychiatrist working in the Government Hospital, passed an interim order directing the Dean, Rajiv Gandhi Government General Hospital, Chennai, to depute a competent Psychiatrist to assess the disability of her brother by name, T.K.Srikanth, at her residence itself and after making such assessment, to file a report before this Court. Thereafter, when the matter was taken up on 30.11.2018, it was informed by the learned counsel for the petitioner that in pursuant to the order passed by this Court on 04.01.2018, the petitioner's brother was examined by a Psychiatrist at Rajiv Gandhi Government General Hospital, who in turn, referred him to Kilpauk Institute of Mental Health, Chennai. He further informed that the petitioner's brother was examined at the said Centre and a report was also sent by them to the Registrar of this Court. Accordingly, the Registry is directed to file the report before this Court. Thus, the matter is listed today along with the report submitted by the Director, Institute of Mental Health, Kilpauk, Chennai-10. The Observation Report dated 20.04.2018 filed by the Medical Officer of Kilpauk Institute of Mental Health, reads as follows:

“As per the reference cited above

Mr.T.K.Sreekanth, 44 years, male was brought by his sister to Institute of Mental Health outpatient department, on 04.04.2018 for assessment. He was subjected to detailed history, clinical, and psychological assessment.

Based on the above it is opined that following head injury on 14th May 2012 patient is in a vegetative state he is having severe cognitive impairment due to Hypoxic brain injury - post traumatic.

*He is unlikely to earn his own livelihood.
Encl. psychological assessment Report.”*

5. Perusal of the above report submitted by the competent person clearly indicate that the brother of the petitioner is not in a vegetative state and is having severe cognitive impairment. The report also states that the said person is unlikely to earn his own livelihood. Since, the said report clearly speaks about the health condition of the said person viz., T.K.Srikanth, this Court is of the view that the petitioner's application dated 08.05.2017 has to be considered by the respondents, more particularly, the 2nd respondent and pass appropriate orders, appointing the petitioner as the guardian to the property and person of the said T.K.Srikanth. Accordingly, the 2nd respondent is directed to consider the petitioner's application and pass appropriate orders in the light of the report submitted by the competent Medical Officer as stated supra. Such exercise shall be done by

the 2nd respondent, within a period of four weeks from the date of receipt of a copy of this order. The legal report submitted by the Kilpauk Institute of Mental Health, Kilpauk, Chennai - 10 dated 24.10.2019 shall form part of the order. No costs. Consequently, the connected miscellaneous petition is closed.

04.01.2019

Speaking/Non Speaking
Index : Yes / No
Internet : Yes / No
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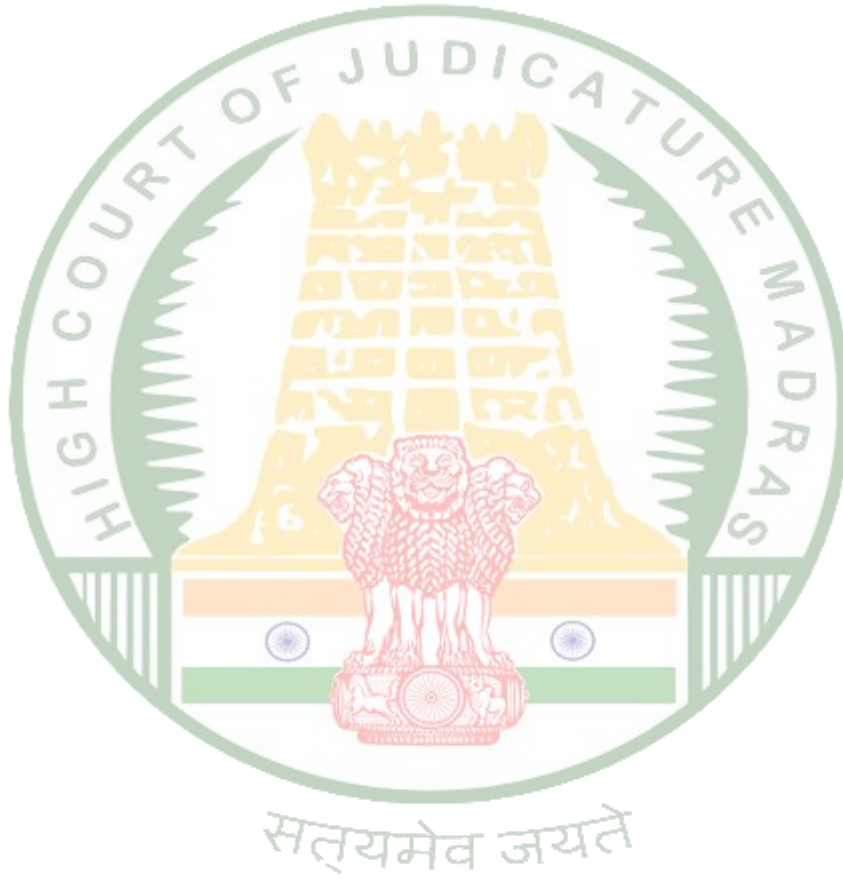
Note:

The legal report submitted by the Kilpauk Institute of Mental Health, Kilpauk, Chennai - 10 dated 24.10.2019 shall form part of the order.

To

- 1.The Secretary to Government,
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Fort St.George,
Chennai - 600 009.
- 2.The Local Level Committee
(Under the National Trust for the
Welfare of persons with Autism,
Cerebral Palsy, Mental Retardation
and Multiple Disabilities Act, 1999)
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- 3.The District Collector,
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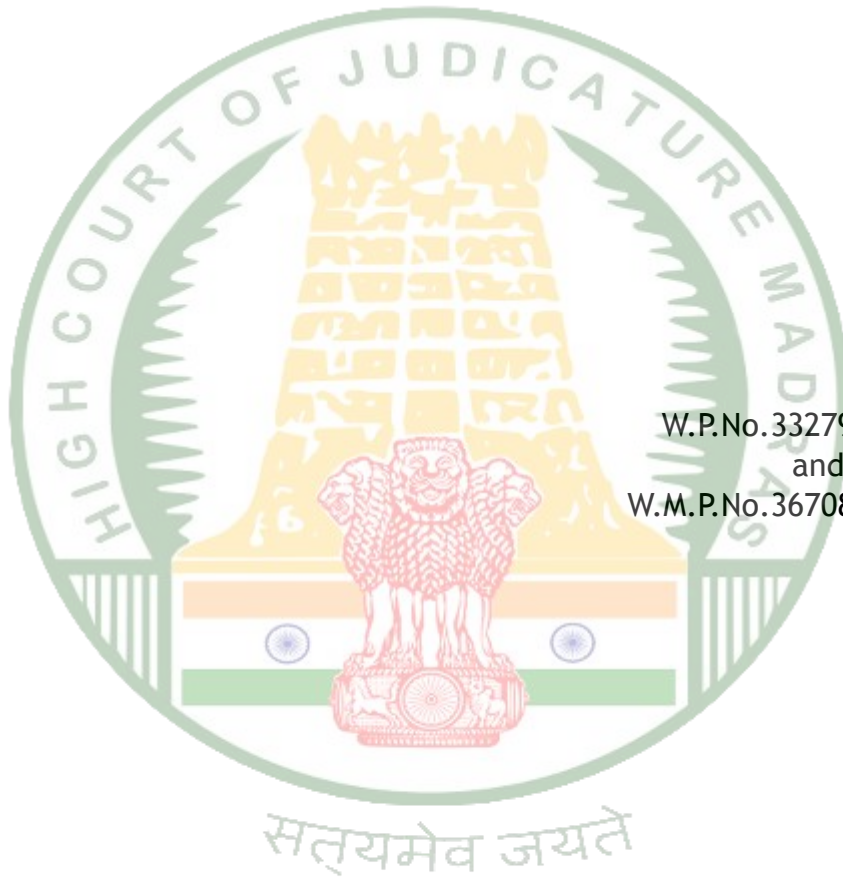
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