

O.P.No.468 of 2018

SENTHILKUMAR RAMAMOORTHY J.

This Petition is filed under Section 53 of the Mental Health Act, 1987 for the appointment of the petitioner as the guardian of his younger sister namely, Ms.Radha Parameswaran, who is a mentally ill person.

2. I heard the learned counsel for the petitioner. The learned counsel submits that the petitioner is the brother of Ms.Radha Parameswaran who suffers from paranoid schizophrenia. Consequently, she submits that it is necessary to appoint a legal guardian for the petitioner's sister. The petitioner has been taking care of the sister even since the parents passed away. The father passed away on 19.04.1984 and the mother passed away on 11.07.1988. She further submitted that evidence was adduced in support of the petition by examining the petitioner as PW1. During the course of the examination in chief of P.W.1, the following 14 documents were exhibited as Ex.P1 to P14:

(1) Ex.P1 is the original Medical certificate given by Dr.Shantha Kamath dated 15.02.2017 in respect of his younger sister Ms.Radha Parameswaran.

(2) Ex.P2 is the photocopy of supporting affidavit dated 04.01.2018 given by 1st respondent stating that he has no objection in appointing the petitioner as the legal guardian to Ms.Radha Parameshwaran.

(3) Ex.P3 is the original supporting affidavit dated 14.11.2017 given by the 2nd respondent stating that she has no objection in appointing the petitioner as the legal guardian to Ms.Radha Parameshwaran.

(4) Ex.P4 is the original supporting affidavit dated 14.11.2017 given by the 3rd respondent stating that he has no objection in appointing the petitioner as the legal guardian to Ms.Radha Parameshwaran.

(5) Ex.P5 is the photocopy of last Will and Testament dated 03.03.1988 executed by Mrs.Janaki Parameshwaran (Marked after comparing and verifying with the certified copy of Will)

(6) Ex.P6 is the photocopy of Trust Deed dated 21.01.1991 executed by petitioner and 1. Mr.T.Dulip Singh registered as Doc.No.57 of 1991 (Marked after comparing and verifying with the certified copy.

(7) Ex.P7 is the photocopy of letter dated 17.01.1989 disclosing the appointment of Mrs.Bhuvaneshwari Chidambar as Trustee of Janakiammal Trust (Marked after comparing and verifying with the original).

(8) Ex.P8 is the photocopy of letter dated 19.04.1996 seeking specimen signature of Mr.V.Jambunathan (Marked after comparing and verifying with the original).

(9) Ex.P9 is the photocopy of death certificate of Mr.V.Jambunathan, who died on 25.07.2002.

(10) Ex.P10 is the photocopy of letter dated 10.04.2014 given by standard chartered bank stating the closure of account bearing No.42410034378.

(11) Ex.P11 (series) are the photocopies of details of payment to SRF Residential Centre and SCARF copy of bills from 02.01.2012 to 19.01.2018 (Marked after comparing and verifying with the originals)

(12) Ex.P12 (series) are the photocopies of details of expenses incurred towards maintenance of flat in Adyar from 14.09.2013 to 12.01.2018 (Marked after comparing and verifying with the originals).

(13) Ex.P13 is the photocopy of Legal Heirship certificate dated 05.05.1984 in respect of his father S.Parameshwaran.

(14) Ex.P14 is my Declaration of willingness to accept the office of legal guardian in respect of my younger sister Ms.Radha Parameshwaran.

3.The learned counsel pointed out that these documents include the original medical certificate given by Dr.Shantha Kamath on 15.02.2017 in respect of the mental condition of the petitioner's younger sister, Ms.Radha Parameswaran. The said document is marked as Ex.P1. Each of the respondents have provided supporting affidavits stating that they have no objection to the appointment of the petitioner as the legal guardian of Ms.Radha Parameswaran. These documents are marked as Ex.P2 to P4. The legal heirship certificate dated 05.05.1984 of the father is marked as Ex.P13. The declaration of willingness is marked as Ex.P14. She also pointed out that the doctor was examined as P.W.2. Dr.Shantha Kamath stated in the proof affidavit dated 06.01.2020 that Ms.Radha Parameswaran suffers from chronic schizophrenia. Consequently, she is under

institutional care and has been admitted at the Bhavishya Bhavan run by the Schizophrenia Research Foundation (SCARF). She also stated that she is treating Ms.Radha Parameswaran. In addition, she has stated that it is necessary to appoint the petitioner, who is the brother and the sole person taking care of Ms.Radha Parameswaran as the guardian of his sister.

4. I considered the submissions of the learned counsel and examined the evidence recorded in this case. Notwithstanding the repeal of the Mental Health Act, 1987 by the Mental Healthcare Act, 2017, the proposed appointment is in line with section 14 of the Mental Healthcare Act, 2017. Therefore, this Court can exercise jurisdiction under clause 17 of the letters patent. The mental condition of Ms.Radha Parameswaran is evidenced both by the medical certificate, which has been marked as P.W.1, and also by the proof affidavit of Dr.Shantha Kamath, who was examined as P.W.2. The other siblings have each given supporting affidavits stating that they have no objection to the appointment of the petitioner as the legal guardian. The legal heirship certificate has also been filed. It is also stated in the petition that the petitioner has been taking care of his younger sister. This statement is corroborated by the evidence of P.W.2 who also emphasised that it is necessary to appoint the petitioner as the legal guardian in view of the condition of Ms.Radha Parameswaran, which is deteriorating.

5. In view of the evidence that I adverted to above, I conclude that the petitioner is a fit and proper person to be appointed as the legal guardian of Ms.Radha Parameswaran.

6. Accordingly, this petition is allowed and the petitioner is appointed as the legal guardian of Ms.Radha Parameswaran (mentally ill person).

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