

SENTHILKUMAR RAMAMOORTHY, J

This petition has been filed under Sections 3,7 to 10 & 29 of the Guardian and Wards Act, 1890 & Order XXI Rules (2) and (3) of the Original Side Rules to appoint the petitioner as the legal guardian of the person and property of her minor grandchildren viz., Master Kumaran and Manisha and also for permission to receive the terminal benefits and family pension of the deceased Muthamilselvan on behalf of the minor grandchildren and to deposit the same in the joint bank account of the minors and the petitioner in any nationalised bank.

2. I heard the learned counsel for the petitioner and the sole respondent has filed a consent affidavit.

3. The learned counsel for the petitioner submits that the petitioner is the maternal grandmother of the minor children and the sole respondent is the maternal grandfather. He further submits that the father of the minors Muthamilselvan, worked as a conductor in the Metropolitan Transport Corporation at Thiruvottiyur Depot, Chennai and that his wife Sivagami was a

home maker. He further submits that the mother of the children died on 23.05.2013 and Muthamilselvan died on 12.11.2018. Upon the death of both the parents of the minor children, the maternal grandparents were taking care of these children. In this regard, the learned counsel for the petitioner submits that the paternal grand parents of the minor children were not willing to take care of the children. He also submits that evidence was recorded in support of the petition. The petitioner was examined as P.W.1. During the examination - in - Chief of P.W.1, the following eight documents are exhibited:

- a) Ex.P1 is the computer generated copy of the death certificate of Muthamilselvan, who died on 12.11.2018.
- b) Ex.P2 is the computer generated copy of the death certificate of Sivagami, who died on 23.05.2013.
- c) Ex.P3 is the computer generated copy of the Legal Heirship certificate dated 26.12.2018 in respect of Mr.Muthamilselvan.
- d) Ex.P4 is the photocopy of the ID card of Mr.Muthamilselvan.
- e) Ex.P5 is the original birth certificate of M.Kumaran, who was born on 02.08.2002.
- f) Ex.P6 is the original birth certificate of M.Manisha, who was born on 31.10.2005.
- g) Ex.P7 is the consent affidavit given by the respondent.
- h) Ex.P8 is the petitioner's declaration of Willingness.

4. Based on the above, the learned counsel for the petitioner submits that the petition is liable to be allowed.

5. I considered the submissions of the learned counsel for the petitioner and examined the evidence recorded in this case.

6. The death certificate of the father of the minor children has been marked as Ex.P1 and it shows that he died on 12.11.2018. The death certificate of the mother of the minor children was filed as Ex.P2 and this document shows that she died on 23.05.2013. The legal heirship certificate that was issued on 26.12.2018 by the Tahsildar, Tondiarpet, which has been filed as Ex.P3, reflects the names of the minor children. The petitioner also filed a declaration of Willingness, which is marked as Ex.P8, and the consent affidavit of the respondent is marked as Ex.P7. The birth certificates of the two minor children have been marked as Ex.P5 and Ex.P6 respectively. These documents reflect that the minor grandson, Master M.Kumaran, was born on 02.08.2002 and the minor granddaughter M.Manisha was born on 31.10.2005. Therefore, the grandson has completed 17 years and would attain the age of majority on 02.08.2020.

7. Based on the foregoing, I find that the petitioner has made out a case to allow this petition albeit subject to protecting the rights of the minor children. Accordingly, this petition is allowed by issuing the following directions:

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(i) The petitioner is declared and appointed as legal guardian of her grandchildren Master Kumaran and Miss Manisha.

(ii) The petitioner is permitted to receive the terminal benefits and family pension of the deceased Muthtamilselvan on behalf of the minor children subject to the condition that two separate accounts shall be opened in the name of each of the minor grandchildren in a nationalised bank and 50% of these amounts shall be remitted into each of the said accounts and the principal amount deposited in such accounts shall not be withdrawn by the petitioner.

(iii) The petitioner is permitted to withdraw the interest that accrues on amounts deposited in these accounts on a quarterly basis.

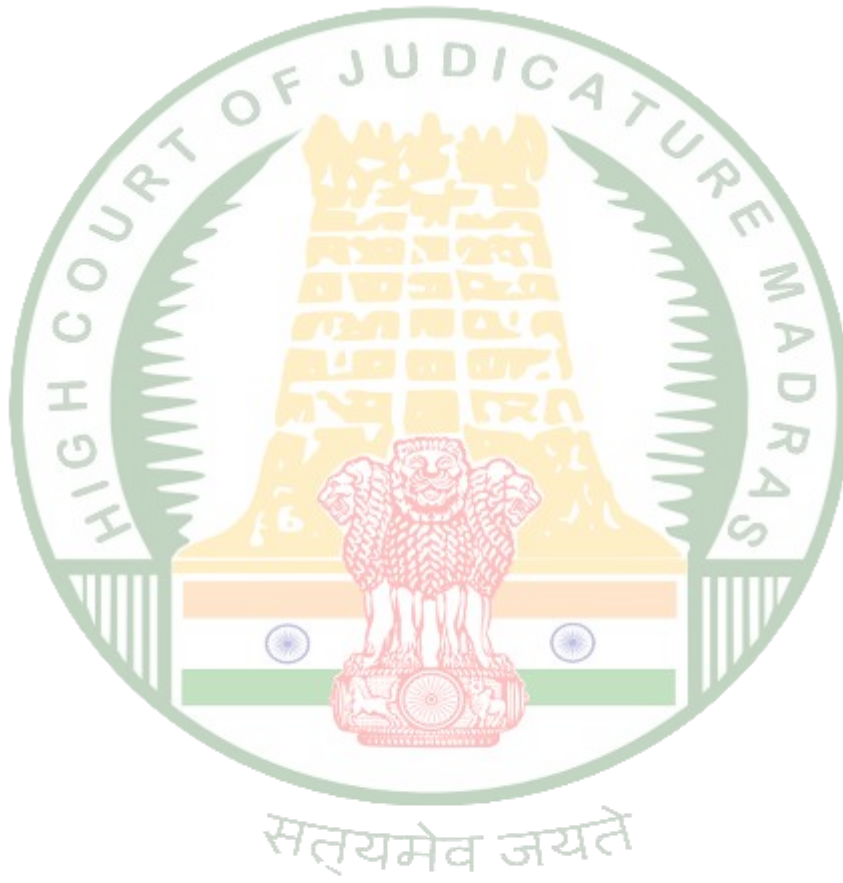
(iv) The minor grandson Master Kumaran is permitted to apply for appropriate orders once he attains the age of majority on 02.08.2020.

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