

O.P.No.556 of 2021

ABDUL QUDDHOSE, J.

This petition has been filed seeking for appointment of the petitioner as the legal guardian for her minor children namely S.Bennet Samuel and S. Dallin Agnes.

2. As seen from the petition, the petitioner's husband, R.Solomon Raja died on 10.06.2021. The death certificate and the legal heirship certificate of the deceased R.Solomon Raja have also been marked as Ex.P3 & Ex.P4 respectively. As seen from the legal heirship certificate of R.Solomon Raja, the petitioner herein namely J.S.Jayabharathy, her minor children namely S.Bennet Samuel and S. Dallin Agnes and Sagunthala, the mother of the deceased are his legal heirs. The minor children S.Bennet Samuel and S. Dallin Agnes are living with their mother namely the petitioner herein, as seen from the petition.

3. The guardian is appointed for the welfare of the minor children. Being the mother, naturally after the death of the father, she becomes entitled to be declared as a guardian for the minor children, unless it is established that the appointment of the mother as the legal guardian will be detrimental to the interest

of the minor children. In the case on hand, no evidence is placed before this Court to prove that the petitioner (mother) is acting detrimental to the interest of the minor children.

4. The petitioner has also examined herself as a witness (PW1) before the learned Master and her evidence has also been recorded which reiterates the contents of the petition filed in support of O.P.No.556 of 2021. It is stated in the petition that the father of the deceased R.Solomon Raja namely Y.Samual Robert Nadar, during his lifetime had executed a Deed of Will dated 01.12.1995 registered as document No.35 of 1995, SRO, Nazareth, Tuticorin District. According to the petitioner, as per the said Will, certain properties situated at Tuticorin and Chennai were bequeathed upon the deceased R.Solomon Raja and his younger brother by name Jayakumar. As seen from the petition, the petitioner has also filed a separate Original Petition seeking Letters of Administration of the aforesaid Will dated 01.12.1995 which is yet to be numbered.

5. Since the petitioner who is the mother of the minor children namely S.Bennet Samuel and S. Dallin Agnes and their being no allegations levelled against her on record which is detrimental to the interest of the minor children,

this Court is inclined to allow this petition as it will not be detrimental to the interest of the minor children as the petitioner is their mother and who is having custody of them without any hindrance.

6. In the result, O.P.No.556 of 2021 is allowed as prayed for and J.S.Jayabharathy, the petitioner herein is declared as the legal guardian for the minor children namely S.Bennet Samuel and S. Dallin Agnes. However, it is made clear that while seeking for Letters of Administration of the Will dated 01.12.1995, the petitioner will have to make all the necessary parties including the mother of the deceased R.Solomon Raja as party respondent in that Original Petition.

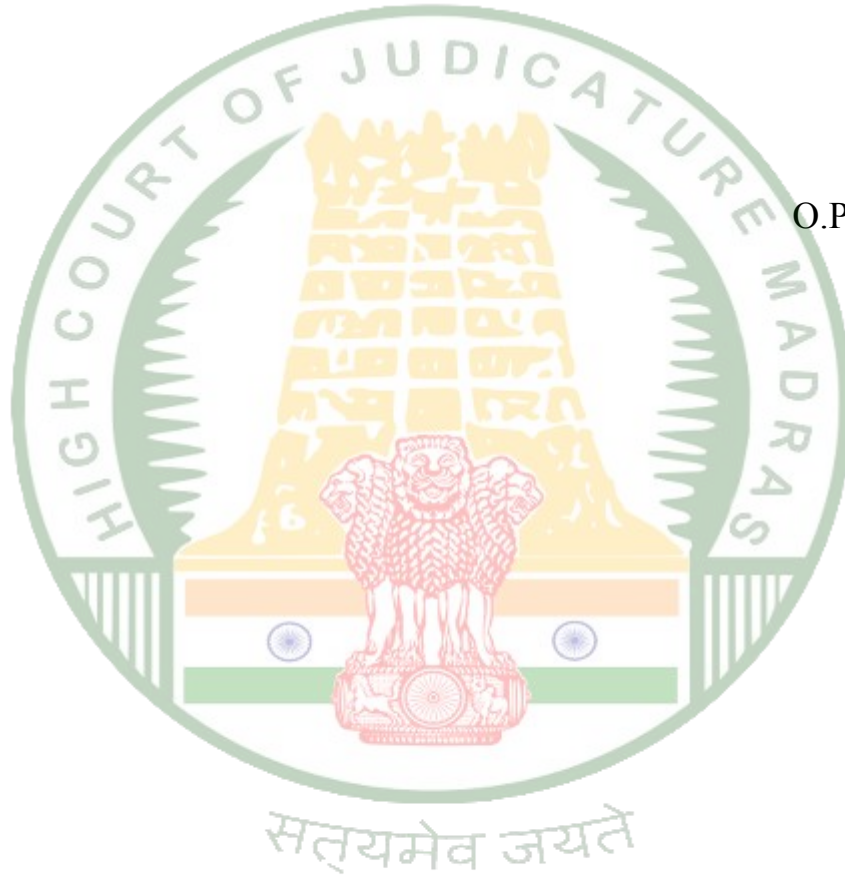
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