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O.P.No.791 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.03.2022

PRONOUNCED ON : 05.04.2022

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

O.P.No.791 of 2021

ORDER

This petition has been filed under Sections 3, 7 to 10 and 29 of the Guardian and Wards Act 1890 r/w Order XXI Rules 2 & 3 of the Original Side Rules praying to appoint the petitioner herein as the legal guardian of the person and properties for the Minors R.Nandhini and R.Durga.

2. One Ravi, the father of the minors died on 01.12.2019 and one Lakshmi who is the mother of the minors died on 20.02.2019. The first minor girl R.Nandhini is aged 12 years born on 31.07.2009 and the 2nd girl R.Durga is aged 10 years born on 20.09.2011. The minors are absolutely entitled under the Will of their deceased father to the movable and immovable properties set out in the schedule to the petition and they are in



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possession of the petitioner herein. The minors are entitled for the said property equally. The approximate total value of the said properties is Rs.2,22,945/- and after deducting the amount towards incumbrances, the approximate net value is Rs.2,00,000/-.

3.The only surviving relations of the minors are the petitioner who is their paternal uncle residing at No.18A, Gandhi Street, West Jones Road, Saidapet, Chennai and their paternal grand mother namely Andal. The paternal grand mother is aged about 62 years and due to her oldage, she expressed her ability to take care of the minor girls.

4. The petitioner is married and having two female kids and resides with his family and he is in good circumstances and working as a Driver in Sairam Group of Colleges, Chennai, having an income of Rs.3,14,400/- per annum. Further, the petitioner is of good character and reputation and of good business habits and that he is fit and proper person of the said minors. The petitioner is not intend to deal/transact with the schedule mentioned property in any way as it belongs to the minors equally. Therefore, in the



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interest of the welfare of the minor children, the petitioner sought permission of this Court to appoint him as the legal guardian. It is further stated that no guardian of the person or of the property of the minors has been appointed by any person and no application has at any time been made to this or to any other Court with respect to Guardianship of the person or property of the minors.

5. Before the learned Master, the petitioner was examined as a witness (PW1). In his deposition, he reiterated the contents of the petition filed in support of this petition. The following documents were marked as Exhibits :

<i>Exhibits</i>	<i>Nature of the documents</i>
P1	The computer generated death certificate of Lakshmi
P2	The computer generated death certificate of Raja
P3	The computer generated Legal Heirship certificate of Raja
P4	The computer generated birth certificate of R.Nandhini
P5	The computer generated birth certificate of R.Durga
P6	The computer generated Legal Heirship certificate of Manavalan
P7	The photocopy of the Family Card of M.Raja
P8	The photocopy of the Aadhaar card of minor R.Nandhini
P9	The photocopy of the Aadhaar card of minor R.Durga
P10	The photocopy of P.W.1's Aadhaar card
P11	The original affidavit of the petitioner's mother Mrs.Andal
P12	(Series 3 Nos.) are P.W.1's original salary slips



<i>Exhibits</i>	<i>Nature of the documents</i>
P13	The photocopy of the Sale Deed dated 25.10.2010 executed in favour of Raja
P14	P.W.1's declaration of willingness

6. The mother and father of the minors died on 01.12.2019 and 20.03.2019 respectively which is evidenced from Ex.P1 & Ex.P2 respectively. The grandmother of the minors has filed an affidavit that her elder son/the petitioner herein would take care of the minor children and the said affidavit has been marked as Ex.P11. The petitioner who is the paternal uncle of the minors has given undertaking that he will take care of the minor children and also deal with the properties of his brother and the said undertaking has been marked as Ex.P14

7. In view of the above facts and circumstances, this Court is satisfied that the petitioner is fit and proper person to take care of the minors and hence, the petitioner is appointed as a guardian of the persons and properties for the minors, R.Nandhini & R.Durga. Till the minor children attain majority, the petitioner should take care of the minors as well as the



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petition schedule property and the property should not be alienated or encumbered in any manner and if any income is derived from the property, the same should be deposited in interest bearing Fixed Deposit in any one of the nationalized banks in the name of the minors under the guardianship of the petitioner. The petitioner is permitted to withdraw the interest alone which shall be utilised for the welfare of the minors.

8. Accordingly, this petition is ordered. The petitioner shall execute a Guardian bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) in favour of the Assistant Registrar (O.S.-II), High Court, Madras.

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Pre-Delivery Order in

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