



C.M.P.(MD)No.5514 of 2022 in C.M.A(MD)SR.No.36310 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 18.07.2022

CORAM

THE HONOURABLE MRS.JUSTICE **R.THARANI**

C.M.P(MD)No.5514 of 2022

and

C.M.A(MD)SR.No.36310 of 2022

Sakthikumar KTRT.Vedasalam
represented by his power agent
Rajeswari Rengasamy Vedaasalam

... Appellant

Vs

1.V.Swamenathan

2.S.Sudha

... Respondents

PRAYER in C.M.P(MD)No.5514 of 2022 :-

This Civil Miscellaneous Petition is filed under Order 3 Rule 2 read with Section 151 of C.P.C to recognize the special power of attorney dated 23.02.2022 and allow the petitioners to file the above Civil Miscellaneous Appeal before this Court through power agent.

PRAYER in C.M.A(MD)SR.No.36310 of 2022 :

This Civil Miscellaneous Appeal is filed under Section 47 of the Guardian and Wards Act 1890, to set aside the order dated 01.04.2022 passed in CFR.No.2402 of 2022 in Unnumbered G.O.P. CNR No.TNTJ010016352022 on the file of the Principal District Judge, Thanjavur.



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For petitioner : Mr.V.Muthukamatchi

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ORDER

This petition is filed to recognise the power agent of the petitioner who intended to file a Civil Miscellaneous Appeal against the order of the learned Principal District Judge, Thanjavur, in unnumbered G.O.P. CNR No.TNTJ010016352022.

2.The petitioner filed a GWOP under Section 7 and 10 of the Guardianship and Ward Act 1898, to appoint himself as a guardian for the minor V.S.Ajaay Ranghaa. That petition was rejected by the learned Principal District Judge, Thanjavur. Against the same, the petitioner intends to file a Civil Miscellaneous Appeal through his power agent and this petition is filed to recognise the power agent.

3.Brief substance of the petition in C.F.R.No.2402 of 2022 is as follows:

The petitioner is the younger brother of the first respondent and the petitioner is a Doctor at Qatar. Respondents 1 and 2 are the parents of the minor. They are working as Doctors at Pattukottai. The minor Ajaay



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Ranghaa is studying 12th standard at Namakkal. The petitioner intends to give him better education and employment opportunities at Quatar and the petitioner is seeking a relief of appoint himself as the guardian to the minor as a paternal uncle of the minor.

4.Brief substance of this petition is as follows:

The petitioner is working as a Doctor in Quatar, he intends to file a Civil Miscellaneous Appeal against the order of the learned Principal District Judge, Thanjavur in C.F.R.No.2402 of 2022. Since the petitioner is in Quatar, he gave power of attorney to his mother to proceed with the appeal and he filed this petition to recognise the Special Power of Attorney.

5.On the side of the petitioner, it is stated that the petitioner is having a good case. The intention of the petitioner is genuine. The petitioner has not concealed anything. Only with the consent of the respondents 1 and 2, the petitioner has intended to file a Civil Miscellaneous Appeal. Since the petitioner is in Quatar, his mother has to be recognized as the power agent to proceed with the appeal.



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6. On the side of the petitioner it is further stated that only with a good intention to give better education to the minor, the petitioner has come forward with this Civil Miscellaneous Appeal and that similar orders were already passed by the Courts. A judgment of the learned Principal Sessions Judge, Coimbatore in G.W.O.P.No.316 of 2014 dated 07.04.2015 is cited.

7.The judgment cited by the petitioner is an order from a Principal District Judge. There is no necessity for this Court to follow the order of the lower Court.

8.Admittedly, the respondents 1 and 2 are the natural guardians. For getting a NRI quota, the petitioner has come forward with the appeal. There is no possibility of appointing the paternal uncle as a guardian of a minor when the biological parents are alive. If the biological parents of the minor, are willing to give any such right to the petitioner, they can give the minor for adoption or for fostering. The relief sought for by the petitioner is not sustainable as such, there is no use in recognizing the power agent of the petitioner.



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9. In the above circumstances, this Civil Miscellaneous Petition is dismissed and the Civil Miscellaneous Appeal is rejected at the SR stage itself.

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Index: Yes / No
Internet : Yes / No
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To

- 1.The Principal District Judge, Thanjavur.
- 2.The Record Keeper, Vernacular Records,
Madurai Bench of Madras High Court, Madurai.



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