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O.P.No.111 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

O.P.No.111 of 2023

Reshma Haresh Jethwani

... Petitioner

PRAYER: Original Petition filed for appointment of Guardian and Estate of mentally-ill person under Clause XVII of the Letters Patent of 1865 prayed to appoint the petitioner as the legal guardian of the above named Mr.Haresh Jethwani and as the manager of the properties and execute all such conveyances and instruments of transfers by way of sale or otherwise of properties of the mentally ill person as a guardian to deposit the sale proceeds/ consideration in any one of the nationalized banks or any government securities or to invest the same gainfully to optimize the resources by way of acquiring land, house or invest in stocks, government securities, capital gain bonds,etc., and all transactions connected with the properties morefully described in the scheduled mentioned properties.

For Petitioner : Mr.Arun C. Mohan

ORDER

This petition is presented by the wife of Haresh T.Jethwani, who is said to be mentally ill. By this petition, the petitioner seeks appointment as the guardian of the person and of the properties of Haresh T.Jethwani.



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2. The petitioner states that her husband, Haresh T.Jethwani, is mentally ill and diagnosed with a condition of chronic alcoholic intoxication, systematic hypertension, and other health disorders resulting in aggressive behaviour. The petitioner states that her husband is under treatment and supervision of specialised team of doctors. It is therefore necessary to appoint the petitioner herein as the manager of the properties of the person and properties of Haresh T.Jethwani.

3. On 13.02.2023 when this original petition was taken up for hearing this Court had directed the registry to number the petition and after recording of evidence this court will examine whether the person is allegedly suffering from mental conditions associated with abuse of alcohol falls within the scope of Clause 17 of the Letters Patent. Further on 03.03.2023 when the matter was taken up for hearing this Court had appointed an Advocate Commissioner namely Mr.Dominic S.David for examining Haresh T.Jethwani and for serving notice on him. Pursuant to the said order the said Advocate Commissioner has examined Haresh T.Jethwani on 09.03.2023, in Apollo Hospital, Greaves Road and he has filed his report, in which it is submitted that he has informed Haresh T.Jethwani that an original petition is filed by his wife for appointing herself as the guardian of the properties and



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person of Haresh T.Jethwani, and he asked him is there any queries for which he answered affirmative. Further few questions was put forth to him, such as in which year are we, for which he answered 2002 and for the question which was his date of birth or year he was not able to remember and chose not to respond. Then he enquired with the physician Dr.Sai Satish, Apollo Hospital about the physical and mental condition of Haresh T.Jethwani for which he stated that he is weak and with regard to mental stability Mr.Haresh is not coherent, and there are no periods of delirium, disorientation and altered sensorium, due to excessive intake of alcohol.

4. The petitioner is examined as P.W.1. She has produced the photocopy of the receipts for the amounts paid to Saralaya Hospitals Pvt Ltd for the period 13.02.2023 to 22.02.2023 as Ex.P1. The photocopies of the Medical records in respect of Haresh T.Jethwani dated 21.01.2021 as Ex.P20, the photocopies of the discharge summary compared with the original dated 28.12.2021 as Ex.P21, and the photocopies of the discharge summary compared with the original dated 05.10.2022 as Ex.P22. The consent affidavits filed by Sushil Haresh Jethwani (son of Haresh T.Jethwani), Raju Tejumal Jethwani (brother of Haresh T.Jethwani), Kiran Govind Bollaki and poonam Vijay Devjani (sisters of Haresh T.Jethwani) as



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Exs.P2 to P5.

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5. The assertions in the petition have been duly proved by adducing evidence and supported by the report of the Advocate Commissioner. In these circumstances, the petitioner is entitled to succeed.

6. Accordingly, O.P.No.111 of 2023 is allowed on the following terms:

- (i) the petitioner is appointed as the guardian of the person and properties described in the Schedule A to G as regards the mentally-ill person, Haresh T.Jethwani.
- (ii) The petitioner shall execute all such conveyances and instruments of transfers by way of sale or otherwise of properties of the mentally ill person and as a guardian to deposit the sale proceeds in a nationalized bank or any Government securities, capital gains bonds etc.,
- (iii) upon completing the aforesaid, the petitioner shall file an affidavit of compliance in the registry.

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Index :Yes/No

Speaking order: Yes/ No

Neutral Citations: Yes/ No

Petitioner's witness:

P.W.1 - Mrs.Reshma Haresh

Documents exhibited by the petitioner:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of the receipts for the amounts paid to Saralaya Hospitals Pvt Ltd for the period 13.02.2023 to 22.02.2023
Ex.P2	Consent affidavit of Sushil Haresh Jethwani
Ex.P3	Consent affidavit of Raju Tejuma Jethwani
Ex.P4	Consent affidavit of Kiran Govind Bollaki
Ex.P5	Consent affidavit of Poonam Vijay Devjani
Ex.P6	CD containing the video clip of the accident that took place on 14.03.2020 aired on Sun TV and uploaded on Youtube with certificate Sec 65B of the Indian Evidence Act
Ex.P7	Photocopy of the Sale Deed dated 05.03.2019 executed in favour of Haresh T.Jethwani and Mrs.Reshma H Jethwani
Ex.P8	Photocopy of the Sale Deed dated 05.03.2019 executed in favour of Haresh T.Jethwani and Mrs.Reshma H Jethwani
Ex.P9	Photocopy of the Sale Deed dated 05.03.2019 executed in favour of Haresh T.Jethwani and Mrs.Reshma H Jethwani
Ex.P10	Photocopy of the Sale Deed dated 23.06.2006 executed in favour of Haresh Tejuma Jethwani and Mrs.Reshma H Jethwani
Ex.P11	Photocopy of the Sale Deed dated 14.02.2020 executed in favour of Haresh T.Jethwani and Mrs.Reshma H Jethwani and Master Kabir Sushil Jethwani



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<i>Exhibits</i>	<i>Documents</i>
Ex.P12	Photocopy of the Settlement Deed dated 27.06.2022 executed in favour of Haresh Tejumal Jethwani
Ex.P13	Photocopy of the Sale Deed dated 17.03.2020 executed in favour of Haresh Tejumal Jethwani and Mrs.Reshma Haresh Jethwani
Ex.P14	Photocopy of the Sale Deed dated 17.03.2020 executed in favour of Haresh Tejumal Jethwani and Mrs.Reshma Haresh Jethwani
Ex.P15	Photocopy of the Sale Deed dated 17.03.2020 executed in favour of Haresh Tejumal Jethwani and Mrs.Reshma Haresh Jethwani
Ex.P16	Photocopy of the Sale Deed dated 17.12.2020 executed in favour of Haresh Tejumal Jethwani and Mrs.Reshma Haresh Jethwani
Ex.P17	Photocopy of the Sale Deed dated 17.12.2020 executed in favour of Haresh Tejumal Jethwani and Mrs.Reshma Haresh Jethwani
Ex.P18	Photocopy of the Sale Deed dated 25.08.1973 executed in favour of Tejumal Gangaram Jethwani
Ex.P19	(Series 80 Nos.) are the online print out of Medical Bills dated 23.01.2023
Ex.P20	Photocopies of the Medical Records in respect of Mr.Haresh T.Jethwani dated 21.01.2021
Ex.P21	Photocopies of the discharge summary dated 28.12.2021 of Mr.Haresh T.Jethwani
Ex.P22	Photocopies of the discharge summary dated 05.10.2022 of Mr.Haresh T.Jethwani
Ex.P23	Printout of photographs evidencing the state of Mr.Haresh Jethwani along with CD
Ex.P24	Affidavit filed by the petitioner under Section 65B of the Indian Evidence Act



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