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W.P.No.10978 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.10978 of 2021 and W.M.P. No.11613 of 2021

1.K.Sarala Reddy (deceased)

(The death of P1 recorded and P2 to P4 permitted
to continue the Proceedings vide order dated
12.01.2023 made in W.M.P. No.17384 of 2021
in W.P. No.10978 of 2021 by CVKJ)

2.K.Sumanth Reddy

3.S.Sangeetha

4.S.Siddhartha

.. Petitioners

Vs.

1.State Commissioner for Persons with Disabilities
Lady Wellington College Campus,
Kamaraj Salai,
Chennai – 600 005.

2.Johny Tom Varghese

3.R.Mallika alias Vimala

4.R.Dhipak

5.Archana

..Respondents



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(R5 deleted from the array of parties
vide order dated 20.02.2023 made in
W.P. No.10978 of 2021 by CVKJ)

Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records leading to the passing of the impugned order dated 27.03.2021 in Case No.18 of 2020 in File No.1243/L.O.3/2020 on the file of the first respondent and to quash the same.

For Petitioner : Mr.Bijai Sundar

For Respondents : Mr.J.Ravindran,
Additional Advocate General
assisted by
Mr.M.Alagu Goutham
Government Advocate for R1 and R2

M.P. Balasubramanian,
Senior Counsel for
Mr.C.Vigneswaran for R3 and R4

ORDER

Challenging the impugned order dated 27.03.2021 in Case No.18 of 2020 in File No.1243/L.O.3/2020 on the file of the first respondent.

2. It is the case of the petitioner that the second petitioner is the son



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and the third petitioner is the daughter and the 4th petitioner is the son in law of the first petitioner. The first and second respondents has given joint guardianship to the first petitioner and third respondent for taking care of the mentally disabled person Vasantha Kumar Reddy, who is the brother of the first petitioner and the third respondent. The first respondent has received an anonymous complaint for the person with disabilities was not taken care properly. Thereby, State Commission suo motu taken action on ground that the disabled person was not properly maintained by the petitioner as well as the private respondents, for which, the State Commission issued notice to the petitioner as well as the private respondents. After conducting enquiry, the respondents 1 & 2 issued impugned order dated 27.03.2021 stating that it does not fall within the consideration of the Court, but has miserably failed to stick to his words by appointing the National Trust to verify the veracity of the Will and appointing the 3rd respondent along with the petitioner to apply for joint guardianship and direction to the National Trust to monitor the assets. The first respondent has clearly gone beyond the scope of his appointment and authority and misused, misutilized, misrepresented, distorted in a one sided manner. Challenging the same, the present writ petition has filed.



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3. The learned counsel for the petitioner submitted that for well being of the disabled person, the first petitioner deceased father executed a Will and settlement deed in favour of the second petitioner on the condition that he has to take care of the disabled person Vasantha Kumar Reddy. Further the learned counsel submitted that the properties having been given by the second petitioner's father, the second respondent at no stretch of imagination can direct the National Trust Act to look into the rights and safety of Vasantha Kumar Reddy, by monitoring the assets, which has been legally vested with him. This clearly indicates the extent to which the second respondent has driven himself to see that injustice is not only meted out but done to vasanthakumar Reddy and to the second petitioner for morally and legally agreeing to take care of him.

4. The learned counsel further submitted that in the impugned order, in total disregard for the provisions of Indian Succession Act and jurisdiction of this Court to decide the veracity of a Will, the second respondent goes on berserk by holding that the Committee under the National Trust Act may consider the veracity of the Will dated 13.01.2018. The second respondent



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usurped the power and jurisdiction of this Court, which is totally in violation.

5. The learned counsel for the private respondents have adopted the arguments made by the learned counsel for the petitioner.

6. The learned Additional Advocate General appearing for the respondents 1 & 2 submitted that if the petitioners will file separate petition under National Trust Act to consider the veracity of the Will, the Local Committee will consider the same and appropriate orders will be passed within the time frame as fixed by this Court.

7. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

8. In view of the fair submission made by the petitioners and the respondents, this Court directs petitioners to file a separate application before the Local Committee under National Trust Act. If such application is filed, the Local Committee shall decide the same and pass appropriate orders



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after providing opportunity to the petitioners as well as the private respondents. The entire exercise shall be concluded within a period of twenty four weeks from the date of receipt of a copy of this order. Further, the Local Committee shall not decide the property dispute including the Will between the parties, which was pending before the competent civil Court.

9. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is also closed.

13.04.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No

To

State Commissioner for Persons with Disabilities
Lady Wellington College Campus,
Kamaraj Salai,
Chennai – 600 005.



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M.DHANDAPANI,J.

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