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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2023

CORAM:

THE HONOURABLE MS.JUSTICE **R.N.MANJULA**

O.P.No.334 of 2023

S.Murugan

... Petitioner

Vs.

V.Parthiban

... Respondent

Prayer:- This Petition is filed under Sections 3,7 to 10 & 29 of Guardian & Wards Act r/w. Order XXI Rule 2 and 3 of the Original Side Rules, to appoint the petitioner as the guardian of the person and property of minor J.P.Maha Vidya; a sum of Rs.20,000/- a month may be fixed for the maintenance and education of the minor; the petitioner may be permitted to maintain the properties scheduled in the petition and to receive the amount of rentals, matured Fixed Deposit, claim of policy, savings bank etc.; the petitioner may be given with liberty to invest any balance of net income of the minor after payment of the said maintenance and costs of this application.

For Petitioner : Mr.R.Baskar

ORDER

This Original Petition has been filed to appoint the petitioner as the guardian of the person and property of minor J.P.Maha Vidya; a sum of



Rs.20,000/- a month may be fixed for the maintenance and education of the minor; the petitioner may be permitted to maintain the properties scheduled in the petition and to receive the amount of rentals, matured Fixed Deposit, policy claim, savings bank account etc. and the petitioner may be given with liberty to invest the balance net income of the minor after payment of the said maintenance.

2. The petitioner is the maternal uncle of the minor child by name J.P.Maha Vidya. Her mother Jamuna died on 15.03.2022 and subsequently, the minor child is under the care and custody of the maternal uncle who is the petitioner herein. The respondent is the father of the child and according to the submission of the learned counsel for the petitioner, his whereabouts are not known. It is further submitted by the learned counsel for the petitioner that the respondent divorced the deceased mother of the minor child during her life time on 22.04.2010 and the respondent got married to someone else and he is not in touch with the petitioner's family or with the minor child.

3. The petitioner examined himself as P.W.1 and Exhibits P1 to P16 were marked.



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4. After the demise of the minor's mother Jamuna, the child is living with her maternal uncle. The respondent is the father of the minor child who dissolved the marriage with the deceased mother and hence, it appears that the respondent is not in touch with the petitioner's family. He also did not object the proceedings which have been filed by the petitioner who is the maternal uncle of the minor child for seeking guardianship of the person and property of the minor child. Since the maternal uncle is the next friend and the nearest relative of the minor child, the petitioner should be appointed as her lawful guardian.

5. There are some movable and immovable properties belonging to the minor's mother and they were inherited by the minor child. The details of those properties is set out in the schedule of the petition. Since the petitioner alone can act as a guardian and next friend of minor child for maintaining the minor child and her properties, the petitioner should be allowed to be appointed as the guardian of the minor child J.P.Maha Vidya for the person and property of the minor child.



6. In the result, this Original Petition is allowed and the petitioner is appointed as a guardian of the person and properties of the minor child J.P.Maha Vidya. The petitioner is at liberty to manage the properties and to receive rentals, matured fixed deposit, policy claim and savings account lying in the bank account of the deceased mother of the minor child and invest the same in a profitable investment after deducting the cost of Rs.20,000/- per month for the maintenance of the minor child. It is made clear that the petitioner should not alienate or create any third party interest in the properties belonging to the deceased mother of the minor. The petitioner should maintain proper accounts for the income derived from the schedule mentioned properties of the deceased mother of the minor child.

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Internet: Yes
Index: Yes/No
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R.N.MANJULA, J.

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