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O.P.No.531 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 07.03.2023

CORAM:

**THE HON'BLE MR. JUSTICE K.KUMARESH BABU**

**O.P.No.531 of 2022**

Mrs.R.Rajeswari

...Petitioner

Vs.

1.Mrs.Janaki Lakshmanan

2.Mr.D.V.Subramanian

... Respondents

**Prayer:** Original Petition filed under Sections 3, 7, 9, 10, 12, 17 & 25 of the Guardians and Wards Act, 1890 Read with Order XXI Rule 2, 3 and 12 of Madras High Court Original Side Rules:

a.Appointing the Petitioner as a fit and proper person to be a guardian of person and the property of the minors S.Rahul and S.Abhinav;

b.Permit the petitioner to do the acts mentioned in paragraphs 7 to 31 considering the protection and welfare of the minor children such as



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i.To mortgage/lease/let out for rent the 3 immovable properties situated at 8/652, Sahadevan Street, Kowsalaya Nagar, Medavakkam, F1, Mulberry Garden Apartments, Plot No.66, Vignarajapuram, 3<sup>rd</sup> cross street, Vengaivasal, Chennai – 600 073, and B21, Abiramai Apartments, Babu Rajendra Prasad Street, West Mambalam, Chennai – 600 033 consenting for redevelopment, advance monies for the redevelopment for the benefit of the children, and until the sale proceeds take place, take care and maintain the same, pay the applicable taxes such as property tax and water tax and undertake other maintenance work related to these properties;

ii.to get the details of the assets in the name of their maternal grandparents and to include the minor children's name as one of the legal heirs of a property situated at Kamakshi Nivas, Baker Apartment No.4, No.70, Thambiah Road, West Mambalam, Chennai – 600 033, in the name of late Mr.B.V.Dhandapani, bank balance and investments, jewellery and other assets to which their late mother, Mrs.S.Aruna is legally entitled to receive, if she was alive; and on remittance of share with respect to the above-mentioned property, the applicant be permitted to sign a NOC for the development of the same or settlement deed in favour of the 2<sup>nd</sup> respondent;



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iii.sell a car bearing number TN 14 E 5242 and a two wheeler bearing number TN 14 M 1981 and execute the necessary documents with the RTO and the potential buyer, and renew the insurance policies pertaining to these vehicles, if need be; and getting necessary NOC and endorsement for cancellation of hypothecation etc.

iv.Apply for duplicate passport and PAN card for S.Rahul and a new one for S.Abhinav;

v.Apply for admission in various educational institutes in India and abroad and carry all necessary activities in this regard including but not limited to talking insurance cover, bank loan, etc.

vi.Engage a Chartered Accountant, Advocate, Attorney, Investment Consultant or other professionals if need be on behalf of the minor children to get legal and financial advice on their assets, liabilities and finances;

vii.Refund and return the medical and other incidental expenses incurred in connection with the hospitalization, death and other related activities towards the final rites of the minor children's parents to Dr.Radhakrishnan, husband of the Applicant herein;



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viii.Appropriate a sum from the minor's account towards settlement of loans of the minor children's deceased parents by the petitioner;

ix.Close the account in the Bank of America, and get the investments, insurance and other proceedings in the name of late Mr.L.Suresh or Mrs.S.Aruna or jointly and credit the same in the account of the minors to be opened;

x.Collect the No objection Certificate/letter from HDFC Bank, Plot No.84, No.53, 4<sup>th</sup> Avenue Ashok Nagar Main Road, Ashok Nagar, Chennai – 600 083 for the already closed loan account;

xi.Close the Mutual Fund Investment with HDFC Mutual Fund (Account No.3575160/04), and transfer the amount to the minor children accounts;

xii.Close the Savings Bank Account of their late father with SBI, Sholinganallur, to transfer the same to the minor children's account;

xiii.Close the four-wheeler Loan Account No.35536739453 with the SBI, Sholinganallur, and to issue the loan paid statement for the release of



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Bank/Finance endorsement of car bearing no.TN 14 E 5242 and related documents to give effect to the closure;

xiv.Close the NPS account with NSDL,

xv.Close the Credit Card (card ending with 6816) loan with HDFC Bank Limited;

xvi.permit the Applicant to file a claim and execute related claim documents including payment discharge with all the above stated institutions and banks to get benefits for the minor children and obtain payment in the name of the children and deposit the same in their account; and

xvii.to pay all the benefits of the minor's father such as group term life death EPFO, gratuity and PF and other benefits in the name of the minor to disclose the amounts due and outstanding to enable the applicant to deposit the same in the minors account;

xviii.to pay all the contributions collected by friends, colleagues and employees at Accenture Limited, for the minor children of Mr.L.Suresh.



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xix.to issue a cheque for the said outstanding amount in the name of the minor children to the deposited in the bank account to be opened for the benefit and welfare of the minor pending disposal of the above GWOP; and

xx.to disclose the outstanding due under the group life death, EPFO, gratuity, PF and other benefits of the deceased father which is payable to the minor children pending disposal of the above GWOP; and

c.to pass such further or other orders as this Court may deem fit.

For Petitioner : Mr.S.R.Sundar

For Respondents : Mr.P.Vasanth for R1

Mr.S.Raghu for R2

### **ORDER**

The original petition has been filed seeking to appoint the petitioner as a fit and proper person to be a guardian of person and property of the minors S.Rahul and S.Abhinav.



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2.The case of the petitioner is that she is the paternal aunt of the minor children S.Rahul and S.Abhinav, who were born on 04.02.2007 and 17.11.2013 respectively.

3.She would submit that they are the children of her brother late L.Suresh who was married to late S.Aruna. She would submit that during pre-covid times, the minor children used to live with parent, paternal grandfather and paternal cousin Ms.R.Aparajhitha daughter of the petitioner. However, during Covid-19 pandemic all the said individuals were admitted to the different hospitals at different points of time. The father of the minors L.Suresh passed away on 07.06.2021 and their mother was also unfortunate and died on 08.06.2021. The paternal cousin viz., Ms.R.Aparajhitha, the daughter of the petitioner also died on 24.06.2021 and the maternal grandparents viz., Mr.Dhandapani and Mrs.Geetha also passed away. The minor children's late father L.Suresh is survived by his mother, the first respondent herein, the petitioner, who is his sister and their late



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mother is survived by her brother, the respondent herein. She would submit that the minor children are left with no natural guardian and no guardian was also appointed by their late father or by the Court. Hence for the protection of the person and property, she seeks to appoint herself as the guardian for the person and property of the minor children S.Rahul and S.Abhinav. She would further submit that there are various movable and immovable assets standing in the name of the parents of the minors apart from the inheritance that they would derive from their parents.

4.Mr.P.Vasanth, learned counsel appearing on behalf the first respondent and Mr.S.Raghu, learned counsel appearing on behalf of the second respondent would submit that they have no objection in the petitioner being appointed as the legal heir of the minors and they would submit that consent affidavits have also given by them and the same has also been marked as Exs.P37 and P38.



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5.I have considered the claim of the petitioner and also had considered the evidence of the petitioner who had examined herself as PW1 and also various exhibits marked by her as Exs.P1 to P42.

6.Ex.P2 is the computer generated Death Certificate of L.Suresh, the father of the minors likewise, Ex.P6 is the Death Certificate of S.Aruna, the mother of the minors and Exs.P12, P14 and P16 are the Death Certificates of other relatives. Exs.P37 and P38 are the consent affidavits filed by the first and second respondents. The deponents of Exs.P37 and P38 have consented in clear terms for appointment of the petitioner as the guardian of the minor children. This is also admitted by the learned counsel appearing on behalf of the first and second respondents. The various other documents marked as exhibits would show the assets of the deceased parents of the minors.

7.In view of the aforesaid evidence supported by the various exhibits and also the consent affidavits given by the first and second respondents. The



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petitioner is appointed as a guardian of the person and property of the minors

S.Rahul and S.Abhinav. The further prayer in Clause (b) of subclause (i) to (xx)

are directed to be carried out by the petitioner except the right of mortgage the properties of the minors as sought for in prayer clause (b) subclause (i).

8.The petitioner is directed to execute a security bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) in the name of the Assistant Registrar, Original Side of this Court.

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Index: yes

Speaking order:yes

Neutral citation:yes

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**K.KUMARESH BABU, J.**

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