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O.P.No.484 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.08.2023**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

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Yasmin Akthar

... Petitioner

PRAYER : Original Petition is filed under Sections 3,7 to 10 and 29 of the Guardian and Wards Act, 1890 r/w. Order XXI Rule 2 & 3 of the Original Side Rules to appoint the petitioner as the Guardian of the person of the minor female children by name Minor K.M.Fathima Zoha Ahamed born on 27.04.2007 and Minor K.M.Fathima Zaida Ahamed born on 17.10.2011 and for properties of the said female children and to permit the petitioner to receive the benefits on behalf of minors and deposit the same in any nationalized bank in the name of the minors, until they attain the age of majority.

For Petitioner : Ms.Abitha banu

ORDER

This Original Petition has been filed to appoint the petitioner as the Guardian of the person and property of the minor female children by name Minor K.M.Fathima Zoha Ahamed born on 27.04.2007 and Minor K.M.Fathima Zaida Ahamed born on 17.10.2011 and to permit the petitioner to receive the benefits on behalf of minor children and deposit the



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same in any Nationalized Bank in the name of the minors, until they attain the age of majority.

2. The averments in the petition are as follows:-

The petitioner is the mother of the minor children viz., K.M.Fathima Zoha Ahamed and K.M.Fathima Zaida Ahamed. The husband of the petitioner and the father of the minor children by name K.K.Mohamed Mohideen Abdul Khader died on 13.06.2020. The petitioner's husband was working as Draughtsman in National Contracting Company (India) Private Limited, GRB Business Centre, Chennai. The deceased is eligible for Employee Provident Fund and at the time of his death, Rs.4,29,852/- was available in the Provident Fund account of the deceased. Since the petitioner and the minor children are the only legal heirs of the deceased, they are entitled to inherit the said asset equally between themselves. The petitioner had already obtained her 1/3rd share and now the amount in the Provident Fund Account would only represent the shares of the minor children. Since the authorities insisted the petitioner to produce the order of this Court appointing her as the guardian of the minor children, she has filed this Petition seeking to appoint her as a guardian of the minor children.



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3. The petitioner has been examined as P.W.1 and the following

documents were marked as Exhibits P1 to P8:

<i>Exhibits</i>	<i>Documents</i>
P1	The computer generated death certificate of K.K.Mohamed Mohideen Abdul Khader.
P2	The computer generated legal heirship certificate of K.K.Mohamed Mohideen Abdul Khader.
P3	The photocopy of the employee ID card of the petitioner's husband K.K. Mohamed Mohideen Abdul Khader.
P4	The photocopy of the savings bank account of minor child Fathima Zoha Ahamed K.M. in the State Bank of India, Royapettah Branch, bearing Account No.41450837722.
P5	The photocopy of Savings Bank Account of minor child Fathima Zaida Ahamad in State Bank of India, Royapettah Branch, bearing Account No.41449790763.
P6	The photocopy of the petitioner's Aadhaar Card.
P7	The computer generated birth certificate of the petitioner's minor daughter K.M.Fathima Zoha Ahamed.
P8	The computer generated birth certificate of the petitioner's minor daughter K.M.Fathima Zaida Ahamed.

4. The birth certificate of the minor children viz., K.M.Fathima Zoha Ahamed born and K.M.Fathima Zaida Ahamed which has been marked as Exhibits P7 and P8 would show that the petitioner is the mother and K.K.Mohamed Mohideen Abdul Khader is the father of the minor children. Ex.P1, the death certificate would show that the husband of the petitioner died on 13.06.2020. The legal heir certificate which is marked as Ex.P2 would show that the petitioner and the minor children are the only legal



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heirs of the deceased K.K.Mohamed Mohideen Abdul Khader. Since the petitioner is the mother and natural guardian of the minor children and the relationship between the petitioner and the minor children is also proved through the oral and documentary evidence available on record, I find no difficulty to appoint the petitioner as guardian of the minor children viz., K.M.Fathima Zoha Ahamed and K.M.Fathima Zaida Ahamed.

5. Accordingly, this Original Petition is allowed on the following terms:

i) The petitioner is appointed as guardian of the minor children viz., K.M.Fathima Zoha Ahamed born on 27.04.2007 and K.M.Fathima Zaida Ahamed born on 17.10.2011 for the properties of the minor female children.

ii) The petitioner shall deposit the share of the minor children in the Employee Provident Fund of the deceased in a Fixed Deposit in any Nationalized Bank in the name of the minors respectively. Such fixed deposit shall be maintained until the minors attain the age of majority.

iii) Upon complying with the above directions, an affidavit of compliance shall be filed in the Registry.



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iv) The minors are granted leave to apply for release of the fixed deposit upon attaining the age of majority.

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