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W.P. No.22759 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.07.2023

CORAM: JUSTICE N.SESHASAYEE

W.P. No.22759 of 2023 and
W.M.P. No.22220 of 2023

S.Subbulakshmi
M/o.Havildar S.Rajesh

... Petitioner

Vs.

- 1.The Colonel
New Army Campus
Near Apeejay Public School
Hosiarpur Road, Jalandhar
Punjab - 144 005
- 2.The Commander Military Hospital
Defence Colony, Guindy
Chennai - 600 032
- 3.Tamil Nadu State Mental Health Authority
Rep. by Chairperson
Medavakkam Tank Road
Kilpauk, Chennai - 600 023
- 4.S.Abirami

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India for a writ of mandamus directing the respondents 1 and 2 to not to handover the custody and settle the retirement benefits of the petitioner mentally-ill son Havildar.S.Rajesh to the 4th respondent herein until the disposal of the application ID TVMMD8762367729 for legal guardianship on the file of the third respondent herein.



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For Petitioner

:Mrs.Kamachi.D

For Respondents

:Mr.Prasad Vijayakumar
Central Govt. Sr. Panel Counsel
for R1 and R2

ORDER

The petitioner before me is the mother of a certain Havildar S.Rajesh. He is now under the care of the second respondent and stated to be in coma stage. The mother now apprehends that the hospital is about to discharge him and give him to the care of his estranged wife against whom he had preferred a petition in O.P. No.57 of 2021 for dissolution of his marriage. The wife of the Havildar S.Rajesh is arrayed as the fourth respondent.

2. The learned counsel for the petitioner took this court through the case status at page no.46 of the typed set of papers and it shows the matter is now at the stage of final arguments.

3.Mr.Prasad Vijayakumar, learned senior panel counsel for the Central Government takes notice for Respondents 1 and 2.



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4. Inasmuch as there is a matrimonial dispute between Havildar S.Rajesh and the fourth respondent pending since 2021, which petition is for dissolution of marriage, it is only appropriate that the unconscious Havildar S.Rajesh is not to be handed over to his estranged wife. Therefore, in the eventuality of Army hospital considering to discharge of Havildar S.Rajesh, he must be left to the care of his mother. The fourth respondent is now required to work out her remedy, if at all she is desirous, independently and in a separate proceedings.

5. The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

31.07.2023

Asr
Index : Yes/No
Speaking/Non-speaking order

Note to office:

Issue order copy on 1.8.2023



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N.SESHASAYEE, J.,

Asr

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