



WEB COPY

O.P.No.497 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No.497 of 2023

Kuppan

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Petitioner

PRAYER: Original Petition filed under Sections 3, 7 to 10 & 29 of Guardians and Wards Act 1890 read with Order XXI Rule 2 & 3 of Original Side Rules, praying to appoint the petitioner as Guardian.

For Petitioner : Mr.M.Suresh kumar

ORDER

This Original Petition has been filed seeking to appoint the petitioner as guardian of the minor children by name K.P.Hemadharshini and K.P.Jayashree.

2. The petitioner is the paternal grandfather of the minor children. The son of the petitioner by name K.Prakash was married to one P.Dhanalakshmi and couple were blessed with the minor children K.P.Hemadharshini and K.P.Jayashree. The said K.Prakash died on 03.04.2015 due to cardiac arrest leaving behind his wife, two minor children



and his father and mother. The mother of the minor children

P.Dhanalakshmi also died on 10.05.2019 due to cancer. The maternal grandparents of the children are also no more. On 30.07.2021, the wife of the petitioner died.

3. After the death of the children's father, considering the welfare of the minor children, the petitioner who is the paternal grandfather of the minor children, had opened a Post Office Account at Anna Nagar Branch, in the name of the minor children under the scheme “Sukanya Samriddhi Yojana” and depositing money every month in their name by appointing their mother as the guardian. Since the mother of the children also died, as a near friend and interested person in the welfare of the Children, the petitioner has filed this petition seeking guardianship of the minor children.

4. The petitioner examined himself as P.W.1 and marked Ex.P.1 to Ex.P.12.

5. Ex.P.1 and Ex.P.2 are the birth certificates of minor children which would show that K.Prakash and P.Dhanalakshmi are their father and mother. Despite the minor child K.P.Hemadharshini was originally given



with the name of P.Dharshini, her name was later changed as K.P.Hemadharshini and a copy of the Tamil Nadu Government Gazette dated 16.05.2012 in this regard is marked as Ex.P.3. The other minor child K.P.Jayashree was writing her name as K.P.Jayasri and hence the change in spelling of her name has also been done and a copy of the Tamil Nadu Government Gazette dated 23.05.2012 is marked as Ex.P.4. From the death certificate of K.Prakash which is marked as Ex.P.5, it is seen that the father of the minor children died on 03.04.2015. The legal heirship certificate of K.Prakash which is produced as Ex.P.6 would show that his wife and two minor children and his mother and father are his legal heirs.

6. Since the mother and wife of K.Prakash died, as on today, the petitioner who is the paternal grandfather of the minor children is their only surviving close relative and next friend. The children are said to be in the custody of their maternal aunt who is the sister of Dhanalakshmi.

7. The learned counsel for the petitioner submitted that he has got no objection for the minors to be in the custody of their maternal aunt, but his limited purpose is to operate the Post Office accounts opened in the names



of the minors. However the prayer sought in this petition is to appoint himself as guardian of the minor children.

8. Since the minor children are in the custody of their maternal aunt and she is neither impleaded as a party nor examined as a witness, the personal appearance of the minor children and their maternal aunt was ordered.

9. Accordingly, the personal appearance of minor children K.P.Hemadharshini and K.P.Jayashree along with their maternal aunt namely Geetha were present today. The interaction with the minor children revealed that they are comfortable with their maternal aunt and the petitioner also visits them frequently at their aunt's house. The maternal aunt of the children is also taking lot of efforts to see the minor children live comfortably with her.

10. Even the petitioner does not seek the custody of the minor children. His limited prayer is to appoint himself as the guardian for the minor children in order to enable him to operate the Post Office Account



opened in the names of the minor children K.P.Hemadharshini and K.P.Jayashree in Ashok Nagar Branch Post Office in Account Nos.3046504303 and 3046504099 respectively by depositing money. It is submitted that the petitioner could not deposit money in the minors' accounts for want of appointing him as the guardian on an order of the Court.

11. The materials on record and the Court's direct interaction with the minor children and their aunt did not disclose anything suspicious on the part of the petitioner for seeking to appoint himself as the guardian for the minor children. Even the minor children and their maternal aunt do not have any objection to appoint the petitioner as the guardian for the minor children in order to enable him to deposit money in the Post Office Accounts opened in the name of the minor children at Ashok Nagar Post Office.

12. In the result, the Original Petition in O.P.No.497 of 2023 is allowed.

26.09.2023

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

Note : Issue Order Copy on 27.09.2023

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R.N.MANJULA, J.

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