



O.P.No.735 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **06.07.2023**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 735 of 2022

T.Ramesh

...

Petitioner

Original Petition is filed under Section 3, 7 to 10 and 20 of Guardians and Wards Act, 1890 r/w. Order XXI Rule (2) & (3) of O.S.Rules:

a) to appoint and declare that the petitioner as the Lawful Guardian of the person and property of the minor child M.Ragavi born on 09.08.2014 till she attains the age of majority

b) to permit the petitioner to receive the Family Pension on behalf of the minor child M.Ragavi and expend the same for the welfare of the minor

c) to permit the petitioner to receive the monthly rent from the scheduled mentioned property and expand the same for the welfare of the minor.

For Petitioner : Mr.K.Sitharthan



O.P.No.735 of 2022

ORDER

WEB COPY

This Original Petition has been filed under Section 3, 7 to 10 of Guardians and Wards Act, 1890 r/w. Order XXI Rule (2) & (3) of O.S.Rules to appoint and declare the petitioner as lawful guardian of the person and property of the minor child by name M.Raghavi born on 09.08.2014 till she attains the age of majority and permit the petitioner to receive the family pension on behalf of the minor child and expend the same for her welfare and also to permit the petitioner to receive a monthly rent for the schedule mentioned property and expend the same for the welfare of the child.

2. The petitioner is said to be the maternal uncle of the minor child M.Raghavi who lost her parents. The father of the child by name E.Moorthy died on 10.06.2021 due to Covid and subsequently the mother of the child one Usha also died on 04.03.2022 due to illness. Thereafter the minor child came under the custody of her maternal uncle and continues to live with the petitioner's family.

3. The petitioner who was examined as P.W.1 stated that the minor child M.Raghavi is under his custody and she is studying in 4th standard at



O.P.No.735 of 2022

Amalorpavam Higher Secondary School, Puducherry and he is providing all necessary support and assistance in every aspect of the child. He further stated that he is the only person who can look after the welfare of the child and the child has left with no other person who can be fit enough to appoint as the guardian for the personal properties of minor. He had also given a declaration that no other person has ever been appointed as guardian of the child.

4. The birth certificate of the minor child which is marked as Ex.P1 would show that the child was born on 09.08.2014 and she is 8 years old. The Aadhaar card of the child and the petitioner have also been produced and the same is marked as Ex.P2 and P3. The father of the minor child was working in Tamil Nadu Housing Board and after his death, family pension was received by her deceased mother. The pension payment order has been produced as Ex.P4. The death certificate of both the father and mother of the minor child has been produced as Ex.P5 and P6. In order to show that the minor child is under the custody of the petitioner and she is being taken care by the petitioner, the school fees receipt dated 20.06.2022 is produced as Ex.P7.



O.P.No.735 of 2022

WEB COPY

5. The parents of the minor child had left some properties intestate and being the only legal heir of her parents, the minor child Raghavi is entitled to inherit the same. Item 1 of the schedule speaks about the family pension details receivable by the minor child in view of the death of her father and mother. Item No.2 of the schedule is the property allotted to both the parents by the Tamil Nadu Slum Clearance Board and after the payment of the installments towards the sale price of the site so allotted, a sale deed was also executed by the Tamil Nadu Clearance Slum Board on 23.06.2010 in favour of both the parents of the minor child and the said sale deed is produced and marked as Ex.P9 . Item 3 of the schedule is a house site measuring 430 sq.ft situated at Tiruvallur District purchased by the mother of the minor child by virtue of a sale deed dated 12.01.2005 and to that effect is Ex.P8 is marked.

6. Apart from P.W.1, the petitioner, two more witnesses were examined as P.W.2 and P.W.3. N. Gowthami (P.W.2) is said to be the sister's daughter of the maternal grandmother of the minor child Ragavi. Being a close relative, she is aware of the relationship between the minor child and the petitioner and she has stated that the petitioner is the maternal



O.P.No.735 of 2022

uncle of the minor child and presently the child is under his custody and he is taking care of the child by admitting her in a Higher Secondary School at Puducherry. She has also filed her affidavit which is marked as Ex.P15.

7. Another witness who was examined as P.W.3 is one Y.M.Anandan. He is the son of the brother of the paternal grandfather of the minor child and he also given an affidavit which is marked as Ex.P16 and in which he has stated that he is aware of the fact that the parents of the minor child died and presently the minor child is in the custody of the petitioner who is her paternal uncle.

8. The evidence of P.W.1, P.W.2 and P.W.3 would only confirm that the minor child Raghavi has got no other guardian except her maternal uncle who is the petitioner herein. I find no reason to suspect the genuineness of the evidence of P.W.2 and P.W.3 who are supportive of the claim made by the petitioner. Since the petitioner is 8 years old, the person who is in fiducial relationship and who is interested in her welfare has to be appointed as her guardian in her interest.

9. Since the petitioner is proved to be a fit person and the child is



O.P.No.735 of 2022

taken care by him and he had admitted the child in a school and educating her by paying the school fees and having her custody with him, I feel it is appropriate to appoint the petitioner as guardian.

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

i) the petitioner is appointed as the Lawful Guardian of the person and property of the minor child M.Ragavi, born on 09.08.2014, until she attains the age of majority.

ii) the petitioner is permitted to receive the Family Pension on behalf of the minor child M.Ragavi until she attains majority and expend the same for the welfare of the minor child .

iii) the petitioner is permitted to receive the monthly rent from the schedule mentioned property until she attains majority and expand the same for the welfare of the minor.

06.07.2023

bkn

Internet :Yes/No

Speaking: Non speaking

Neutral:Yes/ No



O.P.No.735 of 2022

APPENDIX

Petitioner's witness:

P.W.1 – Mr.T.Ramesh

P.W.2 – N.Gowthami

P.W.3 – Y.M.Anandan

Documents exhibited:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	The Computer generated copy of the birth certificate of Minor child M.Ragavi dated 09.08.2014.
Ex.P2	The photocopy of the Aadhar Card of Minor Child M.Ragavi. (Compared with original)
Ex.P3	The photocopy of the Aadhar Card of the petitioner T.Ramesh (Compared with original)
Ex.P4	The photocopy of pension payment order in the name of Usha. (Compared with original)
Ex.P5	The computer generated copy of the death certificate of E.Moorthy dated 12.06.2021.
Ex.P6	The computer generated copy of the death certificate of Usha dated 19.03.2022.
Ex.P7	The original school fees receipt of Minor child M.Ragavi dated 20.06.2022.
Ex.P8	The certified copy of the sale deed executed in favour of M.Usha dated 12.01.2005.
Ex.P9	The certified copy of the sale deed executed in favour of M.Usha & Moorthy dated 23.06.2010.
Ex.P10	The original course certificate issued by Amalorpavam Higher Secondary School, Puducherry dated 09.02.2021.
Ex.P11	The original fees receipts (2nos) issued by Amalorpavam Higher Secondary School, Puducherry.
Ex.P12	The original certificate issued by Panchayat President Rowthankuppam Village dated 17.02.2023.
Ex.P13	The original declaration of willingness given by the petitioner



O.P.No.735 of 2022

<i>Exhibits</i>	<i>Documents</i>
	T.Ramesh
Ex.P14	The original affidavit of T.Ramesh dated 22.12.2022.
Ex.P15	The affidavit of N.Gowthami dated 03.04.2023.
Ex.P16	The affidavit of Y.M.Anandan dated 03.04.2023.

06.07.2023

bkn



WEB COPY



O.P.No.735 of 2022

R.N.MANJULA, J.

bkn

O.P.No. 735 of 2022

06.07.2023