



C.R.P.No.2336 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.2336 of 2017
and C.M.P.No.10979 of 2017

S.Sasikala

... Petitioner

Vs.

1. Premakumari
2. Saraswathi
3. Shanthakumari

... Respondents

Prayer :- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and final order dated 16.02.2017 passed in I.A.No.6052 of 2016 in O.S.No.1207 of 2015 on the file of the learned VI Assistant Judge, City Civil Court, Chennai, by allowing the above Civil Revision Petition.

For Petitioner : Mr.V.Venkkatasamy

For Respondents

For R2 : Ms.G.Parimala

For R3 : No appearance

ORDER



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The Civil Revision Petition has been filed as against the order dated 16.02.2017 passed by the VI Assistant Judge, City Civil Court, Chennai, in I.A.No.6052 of 2016 in O.S.No.1207 of 2015, thereby allowing the petition and appointed the husband of the second plaintiff as guardian for the second defendant in the suit.

2. The petitioner is the first defendant in the suit filed by the respondents 1 & 2 herein in O.S.No.1207 of 2015 for partition. The petitioner and the respondents are the sisters born to one S.A.C. Balakrishnan and Chintamani. After their demise, the respondents 1 & 2 filed the above partition suit. According to them, the third respondent herein mentally retarded person and she has to represented through her guardian.

3. Initially, the second respondent filed application to appoint her as guardian for the third respondent. Though it was allowed by the trial Court, the said order was set aside by this Court by an order dated 29.02.2016, passed in C.R.P.No.608 of 2016. While dismissing the application, this Court granted liberty to the respondents 1 & 2 to file fresh



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application to appoint guardian for the third respondent. Therefore, the respondents 1 & 2 herein filed another application in I.A.No.6052 of 2016 to appoint the husband of the second respondent as guardian for the third respondent herein. The trial Court allowed the said application as against which, the present Civil Revision Petition.

4. Heard Mr.V.Venkkatasamy, learned counsel appearing for the petitioner and Ms.G.Parimala, learned counsel appearing for the second respondent.

5. The only contention raised by the petitioner is that this Court by an order dated 29.02.2016 in C.R.P.No.608 of 2016, set aside the earlier order of appointment of guardian and gave liberty to the respondents 1 & 2 to file fresh petition, on the ground that the third respondent was not subjected for any medical examination. Even then, the third respondent was not subjected for medical examination before any medical board. However, the present application in I.A.No.6052 of 2016 filed by the second respondent herein was allowed by the Court below without subjecting the



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third respondent for medical examination.

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6. Therefore, pending the Civil Revision Petition, this Court by an order dated 03.01.2023, directed the respondents 1 & 2 to subject the third respondent herein for medical examination before the District Medical Board, Kanchipuram. Accordingly, the third respondent was appeared before the Medical Board, Kanchipuram and obtained medical certificate dated 11.01.2023. On a perusal of medical certificate revealed that she has intellectual disability to the tune of 60%. Further opined that the above condition is not likely to improve. Therefore, the third respondent herein has to be looked after by a guardian.

7. Further, the third respondent is under the custody of the second respondent herein and under the care of the second respondent's husband. Therefore, the trial Court rightly appointed the second respondent's husband as guardian for the third respondent and this Court finds no infirmity or illegality in the order passed by the Court below.



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8. Accordingly, the Civil Revision Petition stands dismissed.

Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

06.02.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts

To

1. The VI Assistant Judge,
City Civil Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

rts

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