



W.P(MD)No.995 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.995 of 2023

1.M.Asha Devi

2.Minor Rupan

3.Minor Udhai

... Petitioners

*(P2 and P3 are represented through their
Mother Natural Guardian)*

Vs.

1.The State of Tamil nadu,
Represented by its Secretary,
Health and Family Welfare Department,
Secretariat, Chennai – 09.

2.The District Collector,
Madurai District.

3.The Tahsildhar,
Thirupparankundam,
Madurai District.

4.The District Disabled Welfare Officer,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, to declare the petitioners as the guardian of petitioner's husband namely Shri P.M. who is a mental retardate



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condition presently in a vegetative state of mind to protect his interest, administer bank accounts etc and in the event of necessity, to handle the movable and immovable properties standing in the name of the petitioner's husband and family welfare expenses.

For Petitioners : Mr.R.G.Shankar Ganesh

For Respondents : Mr.B.Saravanan,
Additional Government Pleader.

ORDER

Heard the learned counsel for the writ petitioners and the learned Additional Government Pleader for the respondents. Mr.Ravichandran, the fourth respondent is also present in person to assist the Court.

2.The first petitioner/Asha Devi got married to Shri.P.M. in the year 2003. The petitioners 2 and 3 were born through the said wedlock. The first petitioner as well as Shri.P.M. were working at Australia. They are non-resident Indians. Shri.P.M.'s mental condition appears to have suffered regression. He has now been diagnosed as suffering from schizophrenia. He has properties near Sivagangai and Karuppayurani. It is specifically alleged that the petitioner's brother-in-law had been dealing with PM's property.



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3. The first petitioner had filed W.P.(MD)No.7128 of 2022 in this regard.

This Court vide order dated 18.04.2022 has given a direction to the District Registrar to hold an enquiry to cancel the Document No.223/2021 on the file of Sub Registrar Office, Theppakulam. Documents filed before this Court *prima facie* indicate that the first petitioner's husband who is the father of petitioners 2 and 3 is suffering from mental illness. All that the first petitioner wants is for declaring herself as guardian of her husband/Shri.P.M. Section 14 of the Rights of Persons with Disabilities Act, 2016 provides for appointment of guardianship. The District Collector is the designated authority. The first petitioner herein as the wife of Shri.P.M. is obviously the person best suited to apply for guardianship certificate. The first petitioner is therefore permitted to formally submit an application before the second respondent. The said application has to be accompanied by an identification card issued by the department for welfare of diffidently abled and copy of Aadhar card both for the person with disability as well as the person who is seeking appointment as guardian. The application should be in the requisite format and it should be enclosed with all the relevant documents. After submission of such an application by the first petitioner before the second respondent, a decision on merits and in accordance with law will be taken within a period of six weeks



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thereafter. The second respondent shall cause an enquiry to be made by the fourth respondent. If the second respondent is satisfied, the first petitioner shall be appointed as a guardian for her husband's person as well as properties for a period of two years.

4.The writ petition is disposed of with the aforesaid directions. No costs.

13.02.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No

IAS / PMU

To:

1.The Secretary,
Health and Family Welfare Department,
Secretariat, Chennai – 09.

2.The District Collector,
Madurai District.

3.The Tahsildhar,
Thirupparankundam,
Madurai District.

4.The District Disabled Welfare Officer,
Madurai.



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G.R.SWAMINATHAN, J.

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