



W.P. No.3937 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2024

CORAM:

THE HON'BLE MR. JUSTICE G.K. ILANTHIRAIYAN

W.P. No.3937 of 2021

Ravikumar (Alias) Ravichandran
S/o.Late.Ramamoorthy Naidu,
Represented by Guardian and Next Friend
R.Senthilkumar

... Petitioner

vs.

1. The State of Tamilnadu,
Rep. by the Secretary,
Department of Health & Family Welfare,
Secretariate,
Chennai-600 009.

2. The Thasildar,
Perur Taluk,
Coimbatore.

3. The Dean,
Coimbatore Medical College Hospital,
Trichy Road,
Coimbatore, TamilNadu.

4. Vijaykumar

5. Shyamala

6. Kavitha

... Respondents



W.P. No.3937 of 2021

Prayer : Writ Petition is filed under Article 226 of Constitution of India to issue a writ of Mandamus directing the Respondents 1 & 2 to recognize the petitioner Mr.R.Senthil Kumar as a guardian of Mr.Ravikumar (alias) Ravichandran, S/o.Late.Ramamoorthy Naidu, residing at 33/19, Perumal Kovil Street, Vedapatti Post, Coimbatore-641 007 and to permit him to execute deed of conveyance and other deeds with regard to the properties belonging to Mr.Ravikumar (alias) Ravichandran more particularly in respect of the property situate at S.F.No.180/1 measuring an extent of 1 Punjai Acre out of 2.22 Punjai Acre with right of cart track for ingress and egress in Veerakeralam Village, Thondamuthur Sub-Reg. District, Coimbatore more fully described in the petition to the 6th respondent and to operate his bank accounts.

For Petitioner	: Mr.S.Mukunth, Senior Counsel for M/s.Sarvabhauman Associates
For Respondents 1 to 3	: Mr.S.Arumugam, Government Advocate
For Respondent 4	: Mr.V.Srikanth for Mr.S.Nedunchezhiyan
For Respondent 5	: No appearance
For Respondent 6	: Mr.Babu Rangasamy for Mr.Babu Rangasamy associates



W.P. No.3937 of 2021

ORDER

WEB COPY This writ petition has been filed for direction directing the respondents 1 and 2 to recognize the petitioner as guardian of Mr.Ravikumar @ Ravichandran and also seeking permission to execute sale deed in respect of share of Mr.Ravikumar @ Ravichandran on his behalf.

2. R.Senthilkumar as a Guardian of the petitioner i.e., Mr.Ravikumar @ Ravichandran and the respondents 4 and 5 are his brother and sister. The said Mr.Ravikumar @ Ravichandran is a mentally retarded person. Their father Mr.Ramamoorthy Naidu has executed partition deed dated 25.11.1996 vide Document No.83 of 1997 and 'D' schedule property of the partition deed was allotted in favour of the Ravikumar @ Ravichandran. The other property is allotted in favour of the Senthilkumar and Vijaykumar. As per the partition deed, the 4th respondent was not allotted any share from the property owned by the Ramamoorthy Naidu except the 'D' Schedule property of the partition deed which was allotted in favour of the Ravikumar @ Ravichandran. Senthilkumar and Vijayakumar were jointly sold out by an sale deed dated 10.09.2018 vide document No.5872 of 2018. Insofar as the share



W.P. No.3937 of 2021

of the Ravikumar @ Ravichandran namely the 'D' schedule property of the partition deed, all the brothers and sister had entered into agreement for sale, registered vide document No.5872 of 2018 and executed in favour of the 5th respondent. The total sale consideration was fixed at Rs.21,50,000/- in which on the same date itself the sum of Rs.10,50,000/- each which was deposited in favour of the Senthilkumar and the 4th respondent Vijaykumar. The remaining sum of Rs.50,000/- has to be paid by the 5th respondent within a period of one year from the date of agreement for sale. However, even after completion of one year no sale deed has been executed in favour of the 6th respondent as agreed by the petitioner and 4th and 5th respondents. Though it is also to be noted that the 5th respondent was not allotted any share in the subject property while entering into agreement for sale on behalf of the mentally retarded Ravikumar @ Ravichandran by abandon caution the 5th respondent also added as party to the agreement and she also signed in the agreement for sale in favour of the 6th respondent. As per partition deed, in respect of the property which was allotted to Ravikumar @ Ravichandran, shall be maintained and he would be taken care of by his father M.Ramamoorthy Naidu till his lifetime and thereafter, the vested remainder was given to the brothers of the Ravikumar @ Ravichandran, after the death of



W.P. No.3937 of 2021

Ravikumar @ Ravichandran, with an obligation to take care of the

Ravikumar @ Ravichandran till his life time.

3. On perusal of the partition deed, revealed that the Ravikumar @ Ravichandran has to be maintained by two brothers namely Vijaykumar and Senthilkumar. After his life time, two brothers namely Vijayakumar and Senthilkumar can deal with the property as absolute owners. As per the agreement for sale dated 10.09.2018, all the parties are agreed to appoint any one of the brothers namely Senthilkumar or Vijaykumar to be appointed as Curator/Guardian of mentally retarded Ravikumar @ Ravichandran and he can execute sale deed in favour of the 6th respondent. Now, the 4th respondent filed a suit in O.S.No.51 of 2020 on the file of the III Additional District Munsif Court, Coimbatore for declaration declaring that the agreement for sale dated 10.09.2018 registered vide document No.5872 of 2018 as null and void and the same is pending for trial. The said suit has been filed by the mentally retarded Ravikumar @ Ravichandran represented by his curator the 4th respondent herein. Thereafter, the another brother Senthilkumar has filed this writ petition in the name of mentally retarded Ravikumar @ Ravichandran represented by him as guardian seeking direction to



W.P. No.3937 of 2021

appoint him as Curator/Guardian to execute sale deed in favour of the 6th respondent as agreed by all the parties. After having been received 50% of substantial total sale consideration to the sum of Rs.10,50,000/- by the 4th respondent, now he challenged the agreement for sale by way of Civil Suit. Further, he also vehemently objected to appoint Senthilkumar as curator/Guardian of Ravikumar @ Ravichandran for execution sale deed in favour of the 6th respondent. The question of execution of sale deed does not arise in this writ petition since the agreement for sale is under challenge by the 4th respondent in O.S.No.51 of 2020 on the file of the III Additional District Munsif Court, Coimbatore. However, someone has to be appointed as curator/guardian for mentally retarded Ravikumar @ Ravichandran. Though, the senthilkumar filed this writ petition for appointing him as curator/guardian, due to objections raised by the 4th respondent, he has no objection to appoint 4th respondent as curator/guardian of mentally retarded brother Ravikumar @ Ravichandran.



W.P. No.3937 of 2021

4. In view of the above, the 4th respondent is hereby appointed as curator/guardian of mentally retarded brother Ravikumar @ Ravichandran to deal with the share as allotted in the partition deed dated 25.12.1996 in respect of the subject property comprised in S.F.No.180/1 admeasuring 1 acre out of 2.22 acre with right to cart track for ingress and egress in Veerakerlam Village, Thodamuthur Sub Registrar, Coimbatore. Insofar as the execution of sale deed is concerned all the parties are open to agitate before the Civil Court in O.S.No.51 of 2020 on the file of the III Addl. District Munsif Court, Coimbatore. It is also made clear that the appointment of 4th respondent as curator/guardian of the mentally retarded brother Ravikumar @ Ravichandran does not exclude the petitioner to act in the interest of the mentally retarded brother Ravikumar @ Ravichandran.

5. With the above direction, this writ petition is disposed of. No costs.

13.06.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
gvn



WEB COPY



W.P. No.3937 of 2021

G.K. ILANTHIRAIYAN, J.

gvn

To

1. The State of Tamilnadu,
Rep. by the Secretary,
Department of Health & Family Welfare,
Secretariate,
Chennai-600 009.

2. The Thasildar,
Perur Taluk,
Coimbatore.

3. The Dean,
Coimbatore Medical College Hospital,
Trichy Road,
Coimbatore, TamilNadu.

W.P. No.3937 of 2021

13.06.2024