



O.P.No.592 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :08.11.2024

Pronounced on :12.11.2024

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

ORIGINAL PETITION NO.592 of 2024

1.Mr.R.Purushothaman

2.Mrs.P.Parvathi

3.Mr.Lingesh

.. Petitioners

Prayer: Original Petition has been filed under Section 3,7 to 10 and Section 29 of Guardian and Wards Act read with Order XXI, Rule 2 & 3 of Original Side Rules r/w Clause XVII of Letters Patent Act, to appoint the 1st petitioner as guardian of the person and property of the Minor S.Rakshana and to grant permission to execute a registered partition deed along with the brother of the Minor viz., Mr.Lingesh in respect of the schedule mentioned property.

For Petitioners :Mr.S.Jaganathan



O.P.No.592 of 2024

WEB COPY

ORDER

The Original Petition under Sections 3,7 to 10 and Section 29 of the Guardian and Wards Act r/w Order XXI, Rule 2 and 3 of Original Side Rules r/w Clause XVII of Letters Patent Act, is filed for appointment of Guardian in respect of the person and properties of Minor S.Rakshana, D/o Late Subramani.

2. As per the petition, the petitioners 1 to 3 are the maternal grand father, maternal grand mother and brother respectively, of the minor girl Rakshana. The first petitioner is the proposed guardian to the minor child Raskhana, who was born on 31.03.2010 to the couple Subramani and Dhakshayani. The mother of the minor girl died on 19/05/2021. The father of the minor girl died on 26/02/2023. The father of the minor girl acquired the suit schedule property from his father Adhimoolam Naicker under a deed of settlement dated 08/05/2003 and died intestate. The third petitioner



O.P.No.592 of 2024

and the minor girl are the son and daughter respectively of Subramani. They both are entitled to inherit the properties of their deceased father equally, being the surviving first class heirs of Subramani.

3. After the death of the parents, the third petitioner and the minor girl are under the care and custody of the first and second petitioners being the maternal grand parents. The minor girl is not in a position to maintain her share in the property left by her father and therefore, the first petitioner being the grand father and nearest blood relative, has come forward to maintain the property of the minor girl, after dividing the property into two halves and allotting one half to the third petitioner, the major son and preserve the remaining half for the minor girl, without diminishing its value. Hence, the first petitioner prays to appoint him as guardian of the person and property of the Minor S.Rakshana and to grant permission to execute a registered partition deed along with her brother (third petitioner) in respect of the schedule mentioned property.



O.P.No.592 of 2024

WEB COPY

4. The first petitioner R.Purushotaman, had deposed before the Master as PW-1 and the following documents were marked.

Ex.P1	Photocopy of the settlement deed dated 08.05.2003 executed in favour of Mr.Subramani.
Ex.P2	Computer generated patta in the name of Mr.Subramani Naicker.
Ex.P3	Computer generated death certificate of Mr.Subramani.
Ex.P4	Computer generated death certificate of Mrs.S.Dhakshayani.
Ex.P5	Computer generated legal heir ship certificate of Mrs.S.Dhakshayani.
Ex.P6	Computer generated encumbrance certificate for the period from 01.01.1975 to 10.01.2011 for the property stands in the name of Mr.Subramani.
Ex.P7	Photocopy of the student identity card of S.Rakshana issued by Boaz Public School.
Ex.P8	Photocopy of the Aadhaar card of minor S.Rakshana.
Ex.P9	Photocopy of PW-1's Aadhaar Card.
Ex.P10	Photocopy of the Aadhaar card of Mrs.R.Parvathy, the second petitioner herein.
Ex.P11	Photocopy of the Aadhaar Card of Mr.S.Lingesh, the third petitioner herein.
Ex.P12	Photocopy of the birth certificate of minor S.Rakshana.
Ex.P13	Declaration of PW-1's willingness to act as the guardian.
Ex.P14	Certificate under Section 65B of the Indian Evidence Act, 1872.



O.P.No.592 of 2024

WEB COPY

5. From the above documents, the fact that birth of minor S.Rakshana on 31/03/2010 to Subramani and Dhakshayani is proved through Ex.P-12. The fact Subramani acquired the schedule mentioned properties from his father and enjoying it till his life time is proved through the Settlement deed Ex.P-1, Patta Ex.P-2 and the Encumbrance Certificate Ex.P-6. The death of Dhakshayani, the mother of the minor child and the death of Subramani, the father of the minor are proved through the respective death certificates Ex.P-4 and Ex.P-3. The Aadhar card of the minor girl (Ex.P-8) and the Aadhar cards of the petitioners 1 to 3 (Ex.P-9, Ex.P-10 and Ex.P-11) are marked to prove their identity.

6. The first petitioner has given the declaration in the format prescribed and the same is marked as Ex.P-13. The second and third petitioners have affixed their signatures in the declaration to indicate that



O.P.No.592 of 2024

the consent of the first petitioner to undertake the office of guardianship of the minor girl Rakshana is signed in their presence.

7. The documents along with consent declaration by the first petitioner satisfies the requirement to grant the guardianship of the minor girl Rakshana (D.O.B 31/03/2010) both for her person and properties morefully described in the schedule annexed to the first petitioner.

8. The first petitioner is hereby appointed as guardian of the Minor girl Rakshana shall administer her share in the petition schedule property and render account of the income and expenditure once in 6 months till the minor girl attains majority and the first petitioner discharge from the guardianship.

9.This Original Petition is ordered accordingly.

12.11.2024



O.P.No.592 of 2024

Index:yes/no
Speaking Order/Non Speaking order
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APPENDIX

Petitioner's witness:

P.W.1 – Mr.R.Purushothaman

Documents marked:

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12.11.2024



O.P.No.592 of 2024

WEB COPY

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DR.G.JAYACHANDRAN,J.

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delivery Order made in
O.P.No.592 of 2024

12.11.2024

8/8