



O.P.No. 629 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2024

CORAM

THE HON'BLE MR. JUSTICE RMT.TEEKAA RAMAN

**O.P.No. 629 of 2023
and A.No.2560 of 2024**

1.Mrs.Samdani Begum
2.M.Fakkurudin

...

Petitioners

Vs.

NIL

...

Respondent

PRAYER: Original Petition filed under Clause XVII of Letters Patent Act to appoint the 1st petitioner as guardian of the person and manager of the properties of the mentally retarded younger brother M.Kareemudin and to permit the 1st petitioner to receive the family pension on behalf of the mentally retarded person to expend the same for the welfare of mentally retarded person.

For Petitioners : Mr.M.Thamizhavel

ORDER

This petition is filed under Clause XVII of Letters Patent Act to appoint the 1st petitioner as guardian of the person and manager of the properties of the mentally retarded younger brother M.Kareemudin and to



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permit the 1st petitioner to receive the family pension on behalf of the mentally retarded person to expend the same for the welfare of mentally retarded person.

2. The first and second petitioners are brother and sister of M.Kareemudin, mentally retarded person. The 1st petitioner seeks to appoint him as guardian for the person and property of the mentally retarded younger brother M.Kareemudin and to receive the family pension on behalf of the mentally retarded person from the TNEB.

3. The petitioners' father namely A.Mynudin was a retired TNEB worker and also pensioner. Petitioners' father died on 03.06.2005 and after death of petitioners' father, the petitioners' mother namely Meharunnissa Begum was receiving family pension till her death and the petitioners' mother died on 05.03.2022 leaving behind one daughter and two sons viz. the petitioners and M.Kareemudin, mentally retarded person.



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4. The first petitioner's younger brother M.Kareemudin is suffering from 72% mentally retardation and the first petitioner approached the TNEB to issue the family pension to her brother M.Kareemudin who is in the care and custody of the first petitioner herein. However, the Tamil Nadu Electricity Board refused to sanction the family pension on the ground that without proper court order, the petitioners cannot be appointed as guardian to the mentally retarded person. Hence, this petition.

5. It is averred in the petition that the second petitioner has no objection for appointing the first petitioner as guardian of the person and manager of the properties of the mentally retarded younger brother M.Kareemudin.

6. The first petitioner examined herself as PW1 and marked Exs.P1 to P7. As per the order of the learned Master, subpoena was issued to Medical Officer, Stanley Medical Hospital, Chennai. Accordingly, Professor of Psychiatry in Madras Medical College, Chennai was examined as PW2 who deposed that he examined the said mentally retarded person on



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17.04.2017 and issued Ex.P3 – disability certificate stating that he was diagnosed as mentally retardation with moderate severity with 72% disability, that he cannot act independently and he needs assistance from some one for his life time.

7. After going through the medical evidence of PW2-Doctor and relationship between the parties and no objection expressed by the second petitioner, I find that the first petitioner may be appointed as guardian for the mentally retarded person M.Kareemudin and to receive the family pension on his behalf. The first petitioner is directed to file the statement of accounts/annual returns statement from the Bank, before this Court, within a period of three months from the date of receipt of a copy of this order.

8. This petition is ordered accordingly. Consequently, connected application is closed.

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Neutral Citation: Yes/No

Speaking order : Yes/No

APPENDIX



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Petitioner's witness:

P.W.1 – Mrs.Samdani Begum

P.W.2 – Dr.R.Saravana Jothi

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Computer generated death certificate of Mr.A.Mynudin
Ex.P2	Photocopy of the Aadhaar Card of Mr.Kareemudin (compared with original)
Ex.P3	Photocopy of the disability certificate dated 17.04.2017 issued by Regional Medical Board Government Stanley Hospital, Chennai – 1 in favour of the petitioner;'s brother Mr.Kareemudin (compared with original)
Ex.P4	Computer generated death certificate of Mrs.Meherunnissa Begum
Ex.P5	Computer generated legal heir certificate of Mrs.Meherunnissa Begum
Ex.P6	Photocopy of the letter dated 21.09.2022 from TNEB Anna Salai, Chennai addressed to the first petitioner (compared with the original)
Ex.P7	Copy of the letter dated 27.01.2023 from TNEB Anna Salai, Chennai addressed to the first petitioner (witness stated that she received the said document as original from the department)

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RMT.TEEKAA RAMAN, J.

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