



W.P.No.21816 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.21816 of 2024

and

WMP.No.23803 of 2024

Sandeep Vinod Sarah

...Petitioner

Vs.

1. Union of India,
Rep. by its Secretary,
Ministry of Health and Family Welfare Department,
Room No.201-D, Nirman Bhawan,
New Delhi – 110 011.
2. State of Tamil Nadu,
Rep. by its Secretary,
Department of Health and Family Welfare,
Secretariat,
Fort St. George, Chennai – 600 009.
3. State Bank of India (Puducherry Main Branch),
Represented by its Manager,
No.5, Rue Suffren, Post Bag No.101,
No.15, Puducherry – 605 001.
4. Canara Bank (Puducherry Muthialpet Branch),
Represented by its Manager,
H.O.P.B.No.16, Jawaharlal Nehru Street,
Puducherry – 605 001.



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5. Vinod Sarah Deepak

6. The Local Level Committee for the Welfare of Persons with Autism, Mental Retardation and Multiple Disabilities,
Rep. by Chairperson, District Collector,
Villupuram.

7. The Tahsildar,
Vanoor Taluk,
Villupuram District.

...Respondents

(R6 & R7, Suo Motu impleaded as per order dated 30.07.2024 made in W.P.No.21816 of 2024)

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, holding and declaring the petitioner herein as the legal Guardian of his mother, Ms.Sarah Vinod W/o.Late Vinod Gopalan, aged about 66 years residing at Panayoram, Theleme Road, Auroville, Villupuram District, Tamil Nadu-605101, who is suffering from global cognitive impairment related to brain atrophy/Alzheimer's disease/Dementia, direct all authorities under Article 12 of the Constitution of India to permit the petitioner to act as the legal guardian of Ms.Sarah Vinod, inter alia to operate her family pension account bearing number 11277706155 with the 3rd respondent bank and her pension account bearing number 04272010151900 with the 4th respondent bank and to deal with Ms.Sarah Vinod's immovable and moveable assets.

For Petitioner : M/s.B.Poongkhulali

For Respondents : Mr.T.L.Thirumalaisamy, for R1
: Mr.E.Sundaram, GA, for R2
: Mr.B.Raghavulu Naidu, for R3
: Mr.K.M.Anand, for R4
: Mr.Ngesh Nakhul, for R5
: Mr.U.Baranidharan, AGP, for R6 & R7



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ORDER

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2. The case of the petitioner is that, the petitioner's mother namely Ms.Sarah Vinod, is suffering from global cognitive impairment related to brain atrophy/Alzheimer's disease/Dementia, due to which, the petitioner's mother is slowly losing her daily memory and her capacity to speak and listen and she is not in a mentally stable state to handle her own affairs. The petitioner and his brother, the 5th respondent herein are the only legal heirs of the said Sarah Vinod and they alone are taking care of their mother. However, the petitioner was not permitted to access through his mother's



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accounts and transactions, due to which, the petitioner is unable to withdraw the pension amount of his mother to meet out the day to day needs of his mother, in the absence of Certificate of Legal Guardianship. Since, there is no specific provision available either under the Guardians and Wards Act, 1890 or under the Mental Health Act, 1987 or under any other statute, the petitioner has come up with this Writ petition, seeking to appoint him as the guardian of his mother, the said Sarah Vinod, enabling him to manage the moveable and immovable properties and the bank accounts of his mother, for the purpose of generating funds to meet out the expenses.

3. Learned counsel for the petitioner submitted that the 5th respondent who is the other legal heir of the said Sarah Vinod has no objection for appointing the petitioner as the legal guardian of their mother. Hence, this Court may appoint the petitioner as the guardian of the said Sarah Vinod, enabling him to handle the properties and family pension account bearing No.11277706155 and pension account bearing No.04272010151900, for the purpose of generating funds.



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4. Learned counsel appearing on behalf of the 5th respondent submitted that, the 5th respondent, who is the legal heir of the said Sarah Vinod other than the petitioner has no objection in appointing the petitioner as the legal guardian of the said Sarah Vinod.

5. On the above said contentions, heard learned counsel appearing on behalf of the respective respondents and perused the material documents placed on record.

6. It is the specific case of the petitioner that his mother, the said Darah Vinod is suffering from global cognitive impairment related to brain atrophy/Alzheimer's disease/Dementia, due to which, the petitioner's mother is not in a mentally stable state to handle her own affairs, which fact has been conceded by the official respondents upon investigation. Further, it is also clear from the materials that the 5th respondent is the legal heir of the said Sarah Vinod in addition to the petitioner and as such he has expressed his no objection to grant necessary power to the petitioner so as to enable him to discharge his duties towards his mother by managing the financial



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affairs of the said Sarah Vinod to deal with the properties and her bank accounts.

7. In view of the no objection given by the 5th respondent, who is the legal heir of the said Sarah Vinod, in addition to the petitioner and also considering the fact that there is no specific provision either under the Guardians and Wards Act, 1890 or under the Mental Health Act, 1987 or under any other statute, this Court by invoking the extraordinary jurisdiction under Article 226 of the Constitution of India, appoints the petitioner as the guardian of the said Sarah Vinod, who is suffering from global cognitive impairment related to brain atrophy/Alzheimer's disease/Dementia, in order to deal with her properties and her bank accounts for the purpose of generating funds to meet the medical and other expenses of the said Sarah Vinod.

8. Accordingly, this Court is inclined to dispose of this Writ petition with the following directions :-



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(i) The petitioner is hereby appointed as the legal guardian of the said Sarah Vinod and he is entitled to deal with the family pension account bearing No.11277706155 & pension account bearing No. 04272010151900 of the said Sarah Vinod and also to deal with her immovable and moveable assets, for the purpose of generating funds to meet the medical and other expenses of the said Sarah Vinod.

(ii) Further, the petitioner is directed to maintain an account in respect of the expenditure incurred by the petitioner towards the medical treatment of the said Sarah Vinod and also for the basic day-to-day needs of the family with clear knowledge of such expenditures to the 5th respondent and if the 5th respondent has any grievance with regard to the amount spent by the petitioner on the above heads, he is at liberty to approach this Court for appropriate remedy.

9. With the above directions, this writ petition stands disposed of. No costs. Consequently, the connected Miscellaneous petition is closed.

14.10.2024

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NCC : Yes/ No
Speaking Order : Yes/ No
Index : Yes/ No

Note to office: Issue order copy on 19.11.2024.



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To
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1. Union of India,
Rep. by its Secretary,
Ministry of Health and Family Welfare Department,
Room No.201-D, Nirman Bhawan,
New Delhi – 110 011.
2. Secretary,
State of Tamil Nadu,
Department of Health and Family Welfare,
Secretariat,
Fort St. George, Chennai – 600 009.
3. The Chairperson, District Collector,
Local Level Committee for the Welfare of Persons with
Autism, Mental Retardation and Multiple Disabilities,
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M.DHANDAPANI, J.

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