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O.P.No. 560 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2024

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THE HON'BLE MR. JUSTICE RMT.TEEKAA RAMAN

O.P.No. 560 of 2024

Mr.K.Cowndamani

...

Petitioner

Vs.

1.Mrs.C.M.Selvi
2.Mrs.C.M.Sumitra
Respondents

...

This Original Petition is filed under Clause XVII of Letters of Patent Act, 1865, praying to

a)appoint the petitioner herein, Mr.K.Cowndamani as the guardian of the person of the above named mentally ill person, Mrs.C.M.Shanthi and the manager of the properties of the above named mentally ill person, Mrs.C.M.Shanthi.

b) Permit the petitioner to sell the properties of the said mentally ill person, Mrs.C.M.Shanthi mentioned in the schedule hereunder for a price above the guideline value specified at the time of the sale;

c) Permit the petitioner to deposit the sale consideration, rent, deposit, etc.less of commercial statutory deductions, arising out of the sale of the property of the said mentally ill person, Mrs.C.M.Shanthi mentioned in the schedule hereunder in any Nationalized Bank in a fixed deposit or savings



O.P.No. 560 of 2024

account, in their joint names, and also permit the petitioner to collect the interest thereon for the personal upkeep, medical expenses and maintenance etc., of the said mentally ill person, Mrs.C.M.Shanthi.

d) Permit the guardian to collect and use any other income from the schedule properties to the credit of the said mentally ill person, Mrs.C.M.Shanthi for the upkeep of her and her properties.

e) Permit the guardian to invest any monies, in tax savings schemes and otherwise, to the credit of the said mentally ill person, Mrs.C.M.Shanthi and use the proceeds thereof for the benefit of the said mentally ill person, Mrs.C.M.Shanthi.

For Petitioner : Mr.A.R.Karunakaran

ORDER

This petition is filed under Clause XVII of Letters Patent Act to appoint the petitioner herein, Mr.K.Cowndamani as the guardian of the person of the above named mentally ill person, Mrs.C.M.Shanthi and the manager of the properties of the above named mentally ill person, Mrs.C.M.Shanthi.

2. Mrs.C.M.Shanthi, wife of the petitioner and the mother of the respondents herein, the mentally ill person, aged about 71 years.

3. Mrs.C.M.Shanthi, the mentally ill person, is diagnosed with



O.P.No. 560 of 2024

severe dementia BPSD (psychosis depression, aphesis) and connected ailments and suffering from the same for the past 2 years.

4. The only immediate relations to Mrs.C.M.Shanthi, the mentally ill person, now living are:

a) The petitioner, her husband, aged about 81 years is residing at No.7, Cenetoph Road, 1st Street, Teynampet, Chennai - 600 018.

b) The 1st respondent, her elder daughter, aged 53 years, is residing at No.27/7, Aston Ville, No.3b, Kumaran Colony 1st street, Vadapalani, Chennai - 600 026.

c) The 2nd respondent, her younger daughter, aged 42 years, is residing at No.1, Sujana Residency, New No.1, Old No.37, Kottur Garden, 4th Main Road, Kotturpuram, Chennai - 600 085.

5. The schedule of the properties are standing in the name of the person which is said to be mentally ill and the petitioner herein is the husband of the person. While the respondents are the daughters of the said person and for the management of the properties in Item Nos.2 to 5 are leased out to business entitles which requires and involve much legal processes including lease agreements and other incidental agreements thereto.

6. The petitioner examined himself as PW1 and marked Exs.P1 to P26. As per the order of the learned Master, Dr.T.Srinivas Rajkumar, was



O.P.No. 560 of 2024

working at Geri Care Hospital and he was examined as PW2 who deposed that he examined Mrs.C.M.Shanthi, mentally ill person on 21.05.2024 and issued Ex.P27 – certificate stating that the petitioner's wife is affected by Dementia with BPSD (behavioural psychological symptoms of depression). She cannot act independently. She needs assistance for her day to day activities. She is unable to take decisions for herself and she lost the capacity of understanding and making decisions for herself.

7. Considering the medical evidence of Doctor-P.W.2 coupled with Ex.P27, I find that Mrs.C.M.Shanthi cannot act independently take decision and needs Guardianship appointed in respect of both person and daughters. Since the petitioner is none other than the husband and daughters are also filed consent affidavit and also said to have been filed.

8. Taking note of the evidence available on record and the status of the above capable person and the legal evidence, I am inclined to appoint the petitioner herein as guardian for the mentally ill person namely Mrs.C.M.Shanthi.

9. Accordingly,



WEB COPY



O.P.No. 560 of 2024

(i) This Original Petition is allowed.

(ii) The petitioner herein, Mr.K.Cowndamani is appointed as the guardian of the person of the above named mentally ill person, Mrs.C.M.Shanthi and the manager of the properties of the above named mentally ill person, Mrs.C.M.Shanthi.

(iii) The petitioner is permitted to sell the properties of the said mentally ill person, Mrs.C.M.Shanthi mentioned in the schedule hereunder for a price above the guideline value specified at the time of the sale.

(iv) The petitioner is permitted to deposit the sale consideration, rent, deposit, etc. less of commercial statutory deductions, arising out of the sale of the property of the said mentally ill person, Mrs.C.M.Shanthi mentioned in the schedule hereunder in any Nationalized Bank in a fixed deposit or savings account, in their joint names, and also permit the petitioner to collect the interest thereon for the personal upkeep, medical expenses and maintenance etc., of the said mentally ill person, Mrs.C.M.Shanthi.

(v) The petitioner is permitted to collect and use any other incomes from the schedule properties to the credit of the said mentally ill person,



O.P.No. 560 of 2024

Mrs.C.M.Shanthi for the upkeep of her and her properties.

(vi) The petitioner is permitted to invest any monies, in tax savings schemes and otherwise, to the credit of the said mentally ill person, Mrs.C.M.Shanthi and use the proceeds thereof for the benefit of the said mentally ill person, Mrs.C.M.Shanthi.

25.10.2024

nvi

Neutral Citation: Yes/No

Speaking order : Yes/No

APPENDIX

Petitioner's witness:

P.W.1 – Mr.K.Cowndamani

P.W.2 – Dr.T.Srinivas Rajkumar

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	The photocopy of the Aadhaar Card of Mrs.C.M.Shanthi



O.P.No. 560 of 2024

<i>Exhibits</i>	<i>Documents</i>
Ex.P2	The photocopy of the sale deed dated 09.07.2012 executed in favour of Mrs.C.M.Shanthi
Ex.P3	The photocopy of the sale deed dated 09.09.1992 executed in favour of the petitioner (Mr.K.Cowndamani) and two others
Ex.P4	The photocopy of the construction agreement dated 06.02.1992 entered into between M/s.Pioneer Homes and the petitioner (Mr.K.Cowndamani) and two others
Ex.P5	The photocopy of the sale deed dated 25.05.1993 executed in favour of Mrs.C.M.Shanthi
Ex.P6	The photocopy of the builders agreement dated 06.10.1992 entered into between Mrs.C.M.Shanthi and M/s.Mangal Tirth Estate Ltd
Ex.P7	The photocopy of the sale deed dated 31.03.1994 executed in favour of Mrs.C.M.Shanthi
Ex.P8	The photocopy of the builders agreement dated 14.10.1993 entered into between Mrs.C.M.Shanthi and M/s.Mangal Tirth Estate Ltd
Ex.P9	The photocopy of the sale deed dated 03.10.1991 executed in favour of Mrs.C.M.Shanthi
Ex.P10	The photocopy of the construction agreement dated 28.02.1992 entered into between Sree Balamuruga Construction Company and Mrs.C.M.Shanthi
Ex.P11	The photocopy of the sale deed dated 26.11.1993 executed in favour of Mrs.C.M.Shanthi and two others
Ex.P12	The photocopy of the sale deed dated 25.03.1996 executed in favour of Mrs.C.M.Shanthi
Ex.P13	The photocopy of the construction agreement dated 30.03.1993 entered into between Mrs.C.M.Shanthi and Sri Abirami Foundations (the original of this document is said to have marked as Ex.P12 in C.S.No.509 of 2011 before this Court.



O.P.No. 560 of 2024

<i>Exhibits</i>	<i>Documents</i>
	This document is marked subject to its admissibility, proof and relevancy)
Ex.P14	The photocopy of the sale deed dated 19.04.1996 executed in favour of Mrs.C.M.Shanthi
Ex.P15	The photocopy of the construction agreement dated 19.05.1996 entered into between Mrs.C.M.Shanthi and Sri Abirami Foundations (the original of this document is said to have marked as Ex.P18 in C.S.No.509 of 2011 before this Court. This document is marked subject to its admissibility, proof and relevancy)
Ex.P16	The photocopy of the sale deed dated 27.09.1996 executed in favour of Mrs.C.M.Shanthi
Ex.P17	The photocopy of the construction agreement dated 27.09.1996 entered into between Mrs.C.M.Shanthi and Sri Abirami Foundations (the original of this document is said to have marked as Ex.P22 in C.S.No.509 of 2011 before this Court. This document is marked subject to its admissibility, proof and relevancy)
Ex.P18	The photocopy of the sale deed dated 07.03.1997 executed in favour of Mrs.C.M.Shanthi
Ex.P19	The photocopy of the construction agreement dated 10.03.1997 entered into between Mrs.C.M.Shanthi and Sri Abirami Foundations (the original of this document is said to have marked as Ex.P29 in C.S.No.509 of 2011 before this Court. This document is marked subject to its admissibility, proof and relevancy)
Ex.P20	The photocopy of the construction agreement dated 11.03.1997 entered into between Mrs.C.M.Shanthi and Sri Abirami Foundations (the original of this document is said to have marked as Ex.P33 in C.S.No.509 of 2011 before this Court.



O.P.No. 560 of 2024

<i>Exhibits</i>	<i>Documents</i>
	This document is marked subject to its admissibility, proof and relevancy)
Ex.P21	The photocopy of the sale deed dated 30.10.1992 executed in favour of Mrs.C.M.Shanthi
Ex.P22	The photocopy of the agreement for joint development dated 14.04.2014 between the petitioner (Mr.K.Cowndamani) and three others with M/s.Atikramya Builders
Ex.P23	The photocopy of the supplementary joint development dated 14.09.2018 between the petitioner (Mr.K.Cowndamani) and three others with M/s.Atikramya Builders
Ex.P24	The photocopy of the memorandum of family arrangement dated 22.09.2018.
Ex.P25	The photocopy of the petitioner's Aadhar Card
Ex.P26	The declaration of the petitioner's willingness to act as guardian to mentally ill person Mrs.C.M.Shanthi

25.10.2024

nvi

RMT.TEEKAA RAMAN, J.

nvi



WEB COPY



O.P.No. 560 of 2024

O.P.No. 560 of 2024

25.10.2024