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W.P.No.28884 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

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

W.P.No.28884 of 2024

1. Aruntathi Jeyabal
 2. C.J.Yeswanthram
- ...Petitioners

Vs.

1. The State of Tamilnadu,
Rep. by its Secretary,
Department of Health and Family Welfare,
Secretariat, Fort St. George, Chennai-600 009.
 2. The District Collector,
Chennai District Collector Office,
Rajaji Salai, 4th Floor, 62 Beach Road,
George Town, Chennai-600 001.
 3. The District Collector,
Collectorate,
Coimbatore District, Coimbatore-641 018.
 4. The Sub-Registrar,
Gandhipuram,
Coimbatore-641 035.
 5. The Sub-Registrar,
Ganapathy,
Coimbatore-641 006
- ...Respondents



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Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration, declaring the 1st Petitioner herein as the guardian of her husband viz., Mr.C.R.Jeyabal who is in a comatose condition and permit the 1st Petitioner to operate the bank accounts, protect the interest, administer all his properties and more particularly to sell the immovable properties viz., measuring an extent of 0.68 acres situated at S.F.No.1015 (part), 1.25 ½ acres situated at 1016/1A, 1016/1B of Kalapatti village, Coimbatore District admeasuring an extent of 1.93 ½ acres situated within the jurisdiction of the 4th respondent and 0.93 acres situated at 72/1B, Vellanaipatti Village, Annur Taluk, Coimbatore District within the jurisdiction of the 5th respondent herein standing in the name of his father viz., Mr.C.R.Jeyabal, morefully described in the schedule of this writ petition and to use the proceeds towards treatment of the husband of the 1st petitioner.

For Petitioners : Mr.M.Santharaman

For Respondents : Mr.E.Sundaram, GA, for R1
: Mr.U.Baranidharan, AGP, for R2 to R5

ORDER

This Writ petition has been filed seeking to declare the 1st Petitioner as the legal guardian of her husband namely Mr.C.R.Jeyabal, who is in a comatose condition and to permit the 1st Petitioner to operate the bank accounts and administer all the properties of her husband, for the purpose of generating funds to meet the medical and other expenses.



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2. The case of the petitioners is that, the 1st petitioner married one

C.R.Jeyabal and out of the wedlock, they were blessed with the 2nd petitioner herein, The 1st petitioner's husband, the said C.R.Jeyabal suffered from Arrhythmia, due to which, he lost his consciousness and is in a comatose state and requires continuous treatment and the petitioners are the only care takers of the said C.R.Jeyabal. Since, the petitioners are currently facing financial difficulties in managing their expenses and as 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, the petitioners have come up with this Writ petition, seeking to appoint the 1st petitioner as the guardian of the said C.R.Jeyabal, enabling her to operate the bank accounts and administer all the properties of the said C.R.Jeyabal, for the purpose of generating funds to meet out the medical and other expenses.

3. Learned counsel for the petitioners submitted that the 2nd petitioner, who is the other legal heir of the said C.R.Jeyabal has no objection for appointing the 1st petitioner as the guardian of the said C.R.Jeyabal. Hence, this Court may appoint the 1st petitioner as the guardian of the said C.R.Jeyabal, enabling her to handle the properties and bank account of the



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said C.R.Jeyabal, for the purpose of generating funds to meet out the various expenses.

4. Learned Additional Government Pleader appearing on behalf of the respondents 2 to 5 submitted that, pursuant to the direction of this Court, the officials conducted investigation and it is evident that the 1st petitioner is the wife of the comatose patient/the said C.R.Jeyabal and the 2nd petitioner is the son of the said C.R.Jeyabal and the petitioners are the only surviving legal heirs of the said C.R.Jeyabal and he also submitted a report to that effect before this court today.

5. On the above said contentions, heard learned Government Advocate appearing on behalf of the 1st respondent and perused the material documents placed on record.

6. It is the specific case of the petitioners that the said C.R.Jeyabal is the husband of the 1st petitioner and father of the 2nd petitioner and he is in comatose condition, which fact has been conceded by the official respondents upon investigation. Further, it is also clear from the materials



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that the 2nd petitioner is the other legal heir of the said C.R.Jeyabal in addition to the 1st petitioner and as such he has expressed his no objection to grant necessary power to the 1st petitioner so as to enable her to discharge her duties towards her husband/the said C.R.Jeyabal as also the 2nd petitioner by managing the financial affairs of the said C.R.Jeyabal to deal with the properties and the bank account of the said C.R.Jeyabal.

7. In view of the no objection given by the 2nd petitioner, who is the legal heir of the said C.R.Jeyabal, in addition to the 1st 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 1st petitioner as the guardian of the said C.R.Jeyabal, who is a comatose patient, in order to deal with the properties and bank account of the said C.R.Jeyabal for the purpose of generating funds to meet the medical and other expenses of the said C.R.Jeyabal.



8. Accordingly, this Court is inclined to dispose of this Writ petition

with the following directions :-

(i) The 1st petitioner is hereby appointed as the legal guardian of the said C.R.Jeyabal and she is entitled to deal with the bank accounts and all the properties standing in the name of the said C.R.Jeyabal, more particularly the immovable properties viz., measuring an extent of 0.68 acres situated at S.F.No.1015 (part), 1.25 ½ acres situated at 1016/1A, 1016/1B of Kalapatti village, Coimbatore District admeasuring an extent of 1.93 ½ acres situated within the jurisdiction of the 4th respondent and 0.93 acres situated at 72/1B, Vellanaipatti Village, Annur Taluk, Coimbatore District within the jurisdiction of the 5th respondent herein, standing in the name of the said C.R.Jeyabal, for the purpose of generating funds to meet the medical and other expenses.

(ii) Further, the 1st petitioner is directed to maintain an account in respect of the expenditure incurred by her towards the medical treatment of the said C.R.Jeyabal and also for the basic day-to-day needs of the family with clear knowledge of



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such expenditures to the 2nd petitioner and if the 2nd petitioner has any grievance with regard to the amount spent by the 1st 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.

14.10.2024
(2/2)

skt

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

Note to office: Issue order copy on 19.11.2024.

To

1. The State of Tamilnadu,
Rep. by its Secretary,
Department of Health and Family Welfare,
Secretariat, Fort St. George, Chennai-600 009.
2. The District Collector,
Chennai District Collector Office,
Rajaji Salai, 4th Floor, 62 Beach Road,
George Town, Chennai-600 001.

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skt

3. The District Collector,
Collectorate,
Coimbatore District, Coimbatore-641 018.
4. The Sub-Registrar,
Gandhipuram, Coimbatore-641 035.
5. The Sub-Registrar,
Ganapathy, Coimbatore-641 006

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WMP.No.31503 of 2024

in

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M.DHANDAPANI, J.

In view of amendment to the Court fee rules, this petition is allowed, subject to payment of separate Court fee, within a period of two weeks, from the date of receipt of a copy of this order, if not already paid, failing which this order shall be applicable only to the first petitioner.

14.10.2024

(1/2)

skt