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W.P.No.32457 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.32457 of 2023

1. N.Kasthuri
W/o.Nagarajan

2. D.Nagarajan
S/o.Devaraj

3. N.Padmini
W/o.Dhasarathan

...Petitioners

Vs.

1. The State of Tamilnadu,
Rep. by its Secretary,
Health and Family Welfare Department,
Secretariat,
Chennai-600 009.

2. The District Collector,
Office of the District Collector,
No.62, Rajaji Salai, 4th Floor,
Chennai - 600 001.

3. The Tahsildar,
Perambur Taluk,
Chennai - 600 012.

...Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration, to declare the first petitioner N.Kasthuri as the guardian of her son Mr.Thirukumaran Nagarajan, who is in a comatose condition for operating his bank accounts / investments and dealing with movable and immovable properties for the purpose of protecting his interests.

For Petitioners : Mr.M.Naveen

For Respondents : Mr.U.Baranidharan
Additional Government Pleader

ORDER

This Writ petition has been filed seeking to declare the first petitioner as a legal guardian of her son, namely, Mr.Thirukumaran Nagarajan, who is in a comatose condition and to permit the first petitioner to operate the bank accounts and administer all the properties of her son, for the purpose of protecting his interests.

2. The case of the petitioners is that, the first petitioner and the second petitioner are husband and wife and out of the wedlock, they were blessed with two children, namely, the third respondent herein and one Thirukumaran Nagarajan. The said Thirukumaran Nagarajanl suffered from



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Cardiac Arrest, 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 Thirukumaran Nagarajan. The said Thirukumaran Nagarajan was the CEO and founder of Ninjacart. The said Thirukumaran Nagarajan is in hospital from 24.05.2022 to till date in Sakra World Hospital, Bangalore and he is a divorcee. Therefore, the first petitioner sent a representation to the respondents and requested them to appoint her as his guardian for the purpose of taking future medical decision, treatment, medical expenses and to administer his immovable and movable properties with all powers. However, no action has been taken. Hence, the present writ petition has been filed.

3. Learned counsel for the petitioners submitted that the second petitioner, who is the father of the said Thirukumaran Nagarajan has no objection for appointing the first petitioner as the guardian of the said Thirukumaran Nagarajan. Hence, this Court may appoint the first petitioner as the guardian of the said Thirukumaran Nagarajan, enabling her to handle the properties and bank account of the said Thirukumaran Nagarajan, for the purpose of generating funds to meet out the various expenses.



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4. Learned Additional Government Pleader appearing on behalf of the respondents submitted that, pursuant to the direction of this Court, the officials conducted investigation and it is evident that the first petitioner is the mother of the comatose patient, i.e., the said Thirukumaran Nagarajan and the second petitioner is the father of the said Thirukumaran Nagarajan and the petitioners are the only surviving legal heirs of the said Thirukumaran Nagarajan and he also submitted a report to that effect before this Court.

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

6. It is the specific case of the petitioners that the said Thirukumaran Nagarajan is the son of the petitioners 1 and 2 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 that the second petitioner is the other legal heir of the said Thirukumaran Nagarajan in addition to the first petitioner and as such the second petitioner has



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expressed his no objection to grant necessary power to the first petitioner so as to enable her to discharge her duties towards her son, i.e., the said Thirukumaran Nagarajan as also the first petitioner by managing the financial affairs of the said Thirukumaran Nagarajan to deal with the properties and the bank account of the said Thirukumaran Nagarajan.

7. In view of the no objection given by the second petitioner, who is the legal heir of the said Thirukumaran Nagarajan, in addition to the first 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 first petitioner as the guardian of the said Thirukumaran Nagarajan, who is a comatose patient, in order to deal with the properties and bank account of the said Thirukumaran Nagarajan for the purpose of generating funds to meet the medical and other expenses of the said Thirukumaran Nagarajan.



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

with the following directions :-

(i) The first petitioner is hereby appointed as the legal guardian of the said Thirukumaran Nagarajan and she is entitled to deal with the bank accounts and all the properties standing in the name of the said Thirukumaran Nagarajan, more particularly the movable and immovable assets and estate of the said Thirukumaran Nagarajan .

(ii) Further, the first petitioner is directed to maintain an account in respect of the expenditure incurred by her towards the medical treatment of the said Thirukumaran Nagarajan and also for the basic day-to-day needs of the family with clear knowledge of such expenditures to the second petitioner and if the second petitioner has any grievance with regard to the amount spent by the first 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



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

Note to office: Issue order copy on 21.11.2024.

To

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The State of Tamilnadu,
Health and Family Welfare Department,
Secretariat,
Chennai-600 009.
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M.DHANDAPANI, J.

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