



WEB COPY



W.P.No.31126 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2024

CORAM

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

W.P.No.31126 of 2024

1. Sabira
 2. Rabiyyathul Basiriya
 3. Penazir Faritha
- ...Petitioners

Vs.

1. The State of Tamilnadu,
Rep. by its Secretary,
Health and Family Welfare Department,
Secretariat, Fort St. George, Chennai-600 001.
 2. The District Collector,
Ranipet District, Ranipet.
 3. The Revenue Divisional Officer,
Arakkonam, Ranipet District.
 4. The Tahsildar,
Nemili Taluk, Ranipet District.
 5. The Sub-Registrar,
Arakkonam, Ranipet District.
- ...Respondents



W.P.No.31126 of 2024

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration, declaring the Petitioners as the legal guardians of their father Mr.A.Abdul Hameed, who is in vegetative state to protect his interest and appoint the petitioners as the manager of his properties including operating his bank accounts and other accounts, to sell the immovable properties i.e., unsold Plots bearing Nos.1, 47, 48, 49, 50, 51, 63, 64, 65, 66, 67, 69, 70, 71, 72, 73, 74, 85, 86, 87, 88, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136 and 137 in S.R.B. Garden-Layout, comprised in Survey Nos.527/2B, 530/2A9, 543, 544/3C, 544/4, 544/5, 544/6, 544/7, 544/8, 544/9, 544/10, 544/11, 544/12, 544/13, 544/14, 545/7, 545/8, 545/10 at Melkalathur Village, formerly in Arakkonam Taluk, Vellore District, presently in Nemili Taluk, Ranipet District, standing in the name of their father in order to use the proceeds towards the medical expenses, welfare expenses and other family expense, etc.

For Petitioners : Mr.Raghul Balaji
for Mr.P.S.Prabhu

For Respondents : Mr.E.Sundaram, GA, for R1
: Mr.S.J.Mohamed Sathik, GA, for R2 to R5

ORDER

This Writ petition has been filed seeking to declare the petitioners as the legal guardians of their father namely A.Abdul Hameed, who is in a vegetative condition and to permit the petitioners to operate the bank accounts and administer all the properties of their father, for the purpose of generating funds to meet out the medical and other expenses.



W.P.No.31126 of 2024

2. The case of the petitioners is that, the petitioners are the daughter of one Abdul Hameed and Kairunnisha Abdul Hameed. The petitioners' father, the said Abdul Hameed suffered a Stroke on 27.08.2017 and due to which, he went to vegetative state, despite the various treatment given to him and the petitioners' father requires continuous treatment and the petitioners are the only legal heirs of the said Abdul Hameed and they alone are taking care of their father, as the petitioners' mother, the said Kairunnisha passed away on 30.01.2022. 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 them as the legal guardians of the said Abdul Hameed, enabling them to operate the bank accounts and administer all the properties of their father, for the purpose of generating funds to meet out the medical and other expenses.

3. Learned counsel for the petitioners submitted that the 1st and 3rd petitioners, who are the other legal heirs of the said Abdul Hameed have no objection for appointing the 2nd petitioner as the guardian of the said Abdul



W.P.No.31126 of 2024

Hameed. Hence, this Court may appoint the 2nd petitioner as the guardian of the said Abdul Hameed, enabling her to handle the properties and bank account of the said Abdul Hameed, for the purpose of generating funds to meet out the various expenses.

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

5. It is the specific case of the petitioners that the said Abdul Hameed is the father of the petitioners and he is in vegetative state and the petitioners herein are the only surviving legal heirs of the said Abdul Hameed, which fact has been conceded by the official respondents upon investigation. Further, it is also clear from the materials that the 1st and 3rd petitioners are the other legal heirs of the said Abdul Hameed in addition to the 2nd petitioner and as such they have filed necessary affidavits before this Court expressing their no objection to grant necessary power to the 2nd petitioner so as to enable her to discharge her duties towards her father/the said Abdul Hameed as also the 1st and 3rd petitioners by managing the



W.P.No.31126 of 2024

financial affairs of the said Abdul Hameed to deal with the properties and the bank account of the said Abdul Hameed.

6. In view of the no objection given by the 1st and 3rd petitioners, who are the legal heirs of the said Abdul Hameed, in addition to the 2nd 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 for appointing legal guardian in respect of a person who is in a vegetative state, this Court by invoking the extraordinary jurisdiction under Article 226 of the Constitution of India, appoints the 2nd petitioner as the legal guardian of the said Abdul Hameed, who is in a vegetative state, in order to deal with the properties and bank account of the said Abdul Hameed for the purpose of generating funds to meet the medical and other expenses of the said Abdul Hameed.

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

(i) The 2nd petitioner is hereby appointed as the legal guardian of the said Abdul Hameed and she is entitled to deal



WEB COPY



W.P.No.31126 of 2024

with the bank accounts and all the properties standing in the name of the said Abdul Hameed, more particularly the immovable properties viz., unsold Plots bearing Nos.1, 47, 48, 49, 50, 51, 63, 64, 65, 66, 67, 69, 70, 71, 72, 73, 74, 85, 86, 87, 88, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136 and 137 in S.R.B. Garden-Layout, comprised in Survey Nos.527/2B, 530/2A9, 543, 544/3C, 544/4, 544/5, 544/6, 544/7, 544/8, 544/9, 544/10, 544/11, 544/12, 544/13, 544/14, 545/7, 545/8, 545/10 at Melkalathur Village, formerly in Arakkonam Taluk, Vellore District, presently in Nemili Taluk, Ranipet District, standing in the name of the said Abdul Hameed, for the purpose of generating funds to meet the medical and other expenses.

(ii) Further, the 2nd petitioner is directed to maintain an account in respect of the expenditure incurred by her towards the medical treatment of the said Abdul Hameed and also for the basic day-to-day needs of the family with clear knowledge of such expenditures to the 1st and 3rd petitioners and if the 1st and 3rd petitioners have any grievance with regard to the amount spent by the 2nd petitioner on the above heads, they are at liberty to approach this Court for appropriate remedy.



W.P.No.31126 of 2024

WEB COPY 8. With the above directions, this Writ petition stands disposed of. No costs.

21.10.2024
(2/2)

skt

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

To

1. The State of Tamilnadu,
Rep. by its Secretary,
Health and Family Welfare Department,
Secretariat, Fort St. George, Chennai-600 001.
2. The District Collector,
Ranipet District, Ranipet.
3. The Revenue Divisional Officer,
Arakkonam, Ranipet District.
4. The Tahsildar,
Nemili Taluk, Ranipet District.
5. The Sub-Registrar,
Arakkonam, Ranipet District.

7/9



WEB COPY



W.P.No.31126 of 2024

M.DHANDAPANI, J.

skt

W.P.No.31126 of 2024
(2/2)

21.10.2024



WEB COPY



W.P.No.31126 of 2024

WMP.No.33773 of 2024

in

W.P.No.31126 of 2024

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.

21.10.2024

($\frac{1}{2}$)

skt