



W.P.No.34288 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25/10/2024

C O R A M

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

W.P.No.34288 of 2023

B. Sripriya

...

Petitioner

Vs

1. The State of Tamil Nadu
rep. By its Secretary
Department of Health and Family Welfare
Secretariat, Fort St. George
Chennai 600 009.
2. The District Collector
Chengalpattu District Collectorate Office
GST Road
Chengalpattu 603 001.
3. The Tahsildar
Chengalpattu Taluk Office
V.O.C.Nagar
Chengalpattu 603 001.
4. The Secretary to Government
Commercial Taxes, Registration and
Stamp Act Department
Government of Tamil Nadu
Secretariat, Fort St. George
Chennai 600 009.



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5. The Local Level Committee
for the welfare of Persons with Autism,
Cerebral Palsy, Mental Retardation and
Multiple Disabilities
rep. By Chairperson
District Collector, Collector Office
Chennai.

(R.5 – suo motu impleaded as per order
dated 14/12/2023 in W.P.No.34288 of 2023
by ASMJ)

6. The Tahsildar
Mambalam Taluk Office
New No.1 Old No.2 Bharathidasan Salai
K.K.Nagar
Chennai 600 078.

7. Ravi

8. B. Saradha

9. B. Srikanth ... Respondents

(R.R.6 to 9 are impleaded as per order dated
21/10/2024 in W.M.P.No.34145 of 2024 in
W.P.No.34288 of 2023 by MDIJ)

Prayer: Petition filed under Article 226 of the Constitution of India to issue
a Writ of mandamus to direct the respondents 1 to 4 to recognise the
petitioner as a legal guardian of Mr.B.Ravi, S/o. (Late) V. Balasubramanian
and appoint the petitioner as the Manager for executing and registering



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deeds of conveyance and other deeds for 1/4th share of property pertaining to Mr.B.Ravi at Flat No.G 1 Ground Floor, Plot No.57, Door No.3, 26th Street, Shankara Nagar, Pammal, Chennai 600 075.

For Petitioner ... Mr.N.Ramkumar

For Respondents ... Mr.E.Sundaram
Government Advocate
for R.1

Mr.U.Baranidharan
Additional Government Pleader
for R.R.2, 3 and 5

Mr.LSM.Hasan Fizal
Additional Government Pleader
for R.4

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ORDER

This Writ petition has been filed to direct the respondents 1 to 4 to recognise the petitioner as a legal guardian of Mr.B.Ravi, S/o. (Late) V. Balasubramanian and appoint the petitioner as the Manager for executing and registering deeds of conveyance and other deeds for 1/4th share of property pertaining to Mr.B.Ravi at Flat No.G 1 Ground Floor, Plot No.57, Door No.3, 26th Street, Shankara Nagar, Pammal, Chennai 600 075.



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2. The case of the petitioner is that, the petitioner's father late Mr.V.Balasubramanian, died on 7/12/2019, leaving behind the petitioner, her mother B.Saradha, her brother B.Srikanth and another brother B.Ravi, who is mentally challenged, as his surviving legal heirs. B.Ravi is mentally retarded and the said fact was declared by the Government of Tamil Nadu and National I.D card with disability certificate was issued in his name, After the death of the petitioner's father, the National Trust for the welfare of persons with autism, cerebral palsy, mental retardation and multiple disabilities, Ministry of Social Justice and Empowerment (Divyangian), Government of India, after due verification through second respondent, appointed the petitioner and her mother B.Saradha as the legal guardian for maintenance and residential care of Mr.B.Ravi.

3. The petitioner's father purchased a land measuring 2400 sq.feet at Plot No.57, Door No.3, 26th Street, Shankar Nagar, Pammal, Chennai 75 and constructed a building measuring 1500 sq.feet and settled the remaining undivided piece of land measuring about 830 sq.feet in favour of the petitioner by a Settlement Deed dated 3/3/2017. The petitioner and her



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father with an intention to develop the property, entered into an unregistered joint development agreement with M/s.DAC Promoters on 13/6/2017. The total cost of the property was agreed at Rs.91,00,000/-. The property at Flat No.G.1 in ground floor was valued at Rs.43,00,000/- and agreed to remit a sum of Rs.48,00,000/-. After the demise of his father, petitioner, her mother and brothers, being the surviving legal heirs have acquired the abovesaid property. Since Mr.Srikanth has sold his share, he does not possess any rights over the said property.

4. Now, the petitioner and her mother intending to sell the subject property. The petitioner and her mother were appointed as legal guardian of B.Ravi vide Certificate No.217299329067417 dated 11/10/2021 issued by the National Trust for the welfare of person with autism, cerebtral palay, mental retardation and multiple disabilities, Ministry of Social Justice and empowerment (Divyangjan), Government of India, intends to sell 1/4th share of the property pertaiing to B.Ravi. B.Ravi, is not in a position to execute and register any deeds of conveyance. Therefore, the petitioner approached this Court to recognise the petitioner as a legal guardian of Mr.B.Ravi and appoint the petitioner as the Manager for executing and registering deeds of



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conveyance and other deeds for 1/4th share at the abovementioned property.

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5. Heard Mr.N.Ramkumar, learned counsel for the petitioner, Mr.E.Sundaram, learned Government Advocate for the first respondent, Mr.U.Baranidharan, learned Additional Government Pleader for the respondents 2, 3 and 5 and Mr.LSM.Hasan Fizal, learned Additional Government Pleader for the fourth respondent.

6. Learned counsel for the petitioner submitted that mother of the petitioner is aged 80 years and to avoid further legal complication, petitioner is before this Court to appoint her as the guardian of B.Ravi, enabling her to handle the properties. The petitioner is willing to deposit 1/4th share of B.Ravi and undertakes to take due and diligent care of B.Ravi, until her lifetime.

7. Learned Additional Government Pleader appearing on behalf of the respondents 2, 3 and 5 submitted that this Court, vide, order dated 1/10/2024 has directed the respondents to find out the legal heirs of B.Ravi, who is in comatose condition. Pursuant to the said order, made an enquiry and the



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enquiry reveals that the property of the deceased has been shared among the legal heirs. B.Ravi is unmarried and mentally retarded since his birth. Hence, he cannot earn his livelihood and is completely dependent upon his family members. Due to his health condition, the petitioner has been taking care of B.Ravi.

8. Perused the materials available on record. .

9. It is the specific case of the petitioner that the seventh respondent is her brother who is in comatose condition, which fact has been conceded by the official respondents upon investigation. Further, it is also clear from the materials that respondents 8 and 9 are the legal heirs in addition to the petitioner and they have expressed their no objection to grant necessary power to the petitioner so as to enable her to discharge her duties towards seventh respondent.

10. In view of the no objection given by the eighth and ninth respondents, and also considering the fact that there is no specific provision



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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 seventh respondent, who is a comatose patient, in order to deal with the properties and bank account of the seventh respondent.

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

(i) The petitioner is hereby appointed as the legal guardian of the seventh respondent and she is entitled to deal with the property situated at Flat No.G 1, Ground Floor, Plot No.57, Door No.3, 26th Street, Shankara Nagar, Pammal, Chennai 600 075.

(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 seventh respondent. If the respondents 8 and 9 have any grievance with regard to the amount spent by the petitioner, they are at liberty to



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approach this Court for appropriate remedy.

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

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Index: Yes/No

NCC: Yes/ No

To

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