



W.P(MD)No.441 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.441 of 2024
and
W.M.P.(MD)No.480 of 2024

Muthuraj

... Petitioner

Vs.

The District Collector,
Dindigul District,
Dindigul.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the orders passed by the respondent herein under Na.Ka. No.2553/2021, dated 21.11.2023 and to quash the same as illegal and further direct the respondent to appoint the petitioner as Guardian to the Mentally Retarded Sister one Miss R. Saradha for the purpose of dealing with her movable and immovable properties, as contemplated under Section 14 and 21 of the National Trust Act, 1999.

For Petitioner : Mr.K.R.Laxman

For Respondent : Mr.K.Balasubramani
Special Government Pleader



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ORDER

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Heard both sides.

2. The petitioner's sister Ms.R.Saradha has a congenital intellectual issues. The petitioner's mother was taking care of her fully. The petitioner's mother has also become very old. The petitioner applied to the respondent for appointing him as guardian. Enquiry was conducted by the Local Level Committee constituted under National Trust Act, 1999. Thereafter, the District Collector, Dindigul passed the order dated 21.11.2023 appointing the petitioner as guardian for his sister R.Saradha. But the guardianship did not extend to Saradha's property. That led to filing of this writ petition.

3. The learned counsel appearing for the petitioner submitted that Ramasamy / father of the petitioner was having 10 acres and 84 cents. He had settled 6 acres and 55 cents absolutely in favour of Sukumari / mother of the petitioner. Saradha has 1/4th share in the remaining 3 acres and 3.8 cents. The petitioner had identified the purchaser and he is willing to buy the entire property as one plot. The petitioner would inform this Court that if Saradha's share also cannot be alienated, then, transaction may not go through. The petitioner is ready to deposit the sale consideration representing saradha's share in a fixed deposit in the nationalized bank. The only question that calls for consideration is whether the



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petitioner's request can be accepted.

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4. Ramasamy and Sukumari were blessed with three children namely Kavitha, Muthuraj(petitioner herein) and Ms.Saradha. Muthraj is now aged about 42 years. The learned counsel for the petitioner informs the Court that he is yet to get married. It is stated that the prospective brides are insisting that Saradha should be admitted in a care home as a condition for getting married. Since the petitioner is insisting that she will remain with him, his marriage alliance is yet to be finalised. Neither the State nor the Court have been taking care of Saradha all these years. Saradha is now 36 years old. One should repose trust in the immediate family members who have been taking care of the special child all these years. At the same time, certain conditions will have to be stipulated. I notice that only because of some financial distress, the family properties are being alienated. Of-course, the petitioner appeared before this Court in person and assured this Court that till his last breath, he will take care of his sister. I have no reason to disbelieve the petitioner's words. But one can never be certain of what future holds. If the petitioner pre-deceases his sister, there must be some arrangement for taking care of Saradha. It is for this reason I indicated to the petitioner that sale consideration representing Saradha's share will have to be deposited. The petitioner agreed to do so.

5. The Writ Petition is disposed of in the following terms:-



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(I) The impugned order dated 21.11.2023 passed by the first respondent is modified and it is declared that the writ petitioner is the legal guardian for his biological sister Ms.R.Saradha both for her person as well as for her property.

(*)(II) “The petitioner is permitted to dispose of the land measuring 10 acres and 84 cents covered by Patta Nos.1348, 1171 & 2801, Pallappatti Village, Nilakottai Taluk, Dindigul District **and measuring 1 acre & 9 cents covered by Patta No.6385 and measuring 23 cents covered by Patta No.6629, Kurumpatti Village, Dindigul District.**”

(III) The petitioner undertakes to deposit a sum of Rs.13,50,000/- to the credit of R.Saradha in any nationalized bank. The petitioner as the legal guardian of R.Saradha is entitled to receive the accrued interest once in six months.

It is needless to mention that the said interest amount will be used by the petitioner for the benefit and welfare of Saradha. After the demise of Saradha, the deposit amount will go to the petitioner or his legal heirs.



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6. The Writ Petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD II)

(*)Incorporated the Clause II as per the order of this court dated 23.08.2024 made in WP(MD).No. 441 of 2024.

Sd/-

Assistant Registrar(P & A)

// True Copy //

23/08/2024

Sub Assistant Registrar()

RMI

To

To be substituted to the order which is already despatched on 05.06.2024

The District Collector,
Dindigul District,
Dindigul.

+1 CC to M/s.K.R.LAXMAN, Advocate (SR-19794[F] dated 12/04/2024)

+1 CC to M/s.SPL.GP (SR-20470[F] dated 16/04/2024)



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