



W.P(MD)No.25555 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.25555 of 2024

Muthulakshmi,
W/o.Muthu and D/o.Subbiah Pillai,
Representing her daughter mentally retarded person,
M.Jeyalakshmi. ... Petitioner

Vs

1.The District Collector,
Tuticorin District.
2.Chellammal
3.M.Nalini
4.R.Muthu Sarmila ... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus to appoint the petitioner as guardian/curator for the mentally retarded person Jeyalakshmi to call upon the guardian to execute a partition release in favour of Chellammal regarding the affidavit schedule undivided 1/3rd right of the mentally retarded person, to keep alive this writ petition as to seek periodical guidance whenever the needs of Jeyalakshmi warrants and to give other directions .

For Petitioner : Mr.PS.Sundaram

For R – 1 : Mr.S.Shanmugavel
Additional Government Pleader

For RR 2 to 4 : Mr.S.Vidhya Sagar



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ORDER

This Writ Petition has been filed by the petitioner for a direction to appoint the petitioner as guardian for the mentally retarded person Jeyalakshmi in order to execute partition/release deed in favour of the second respondent in respect of her 1/3 share of the subject property.

2.The subject property belonged to one Pitchammal W/o.Subbiah Pillai. She died on 05.08.2001. While she was alive, she had executed settlement deed in favour of her daughter Muthulakshmi by the registered settlement deed dated 22.03.1980 vide Document No.429 of 1980 by giving her life estate and residuary estate in favour of her children. While being so, the said Muthulakshmi had executed partition/release right with regard to her life estate in favour of her three daughters namely the respondents 2 and 3 and one Jeyalakshmi by the usage relinquishment right deed dated 17.10.2022 vide Document No. 5833 of 2022. The said Muthulakshmi retained her statutory right under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 to be maintained by her three daughters and her husband



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also died on 28.11.2019 as an army person. One of the daughter Jeyalakshmi was married to one Ramesh Kumar, who died in the year 2023. She gave birth to one daughter who is the fourth respondent herein and got married with Saravana Perumal. The petitioner, who is being the mother of the said Jeyalakshmi, who is a mentally retarded person, filed a petition under Sections 14(1) and 16 of the National Trust for the Welfare of Persons with Autism Cerebral Palsy Mental Retardation and Multiple Disabilities before the first respondent on 28.10.2023. However, there is no response from the first respondent. Thereafter, the petitioner is being the mother of the said mentally retarded daughter Jeyalakshmi applied for pension for her mentally retardedness. The first respondent ordered pension to the tune of Rs.1,500/- and the petitioner is receiving the same on behalf of her mentally retarded daughter Jeyalakshmi. It is credited to the account of her daughter Jeyalakshmi for her expenses. The petitioner sought for to appoint her as a guardian/curator for the mentally retarded daughter Jeyalakshmi.

3.On perusal of the counter-affidavit filed by the respondents 2 to 4, who are being the sisters of the mentally



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retarded person Jeyalakshmi and also the daughter of the said Jeyalakshmi respectively. They do not have any objection to appointing the petitioner as guardian for the mentally retarded Jeyalakshmi.

4.On perusal of the medical records also would reveal that the said Jeyalakshmi got slowly deteriorated and presently she is 88% mentally affected person. She was also examined by the Board of Doctors who opined that she is a mentally retarded person. In fact, considering the said report, the first respondent ordered a pension for the mentally retarded person to the tune of Rs.1,500/- and the same is received by the petitioner as the mother of the said Jeyalakshmi. Therefore, there is absolutely no impediment to appoint the petitioner as the guardian of her mentally retarded daughter Jeyalakshmi to deal with her share in their family property. Accordingly, the petitioner Muthulakshmi is hereby appointed as guardian/curator for her mentally retarded daughter Jeyalakshmi to deal with her life over the family property.



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5. Accordingly, this Writ Petition is allowed. There shall be no order as to costs.

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NCC : Yes / No
Index : Yes / No
Internet : Yes
ps

To

The District Collector,
Tuticorin District.



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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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