

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

MONDAY, THE FOURTH DAY OF MARCH
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HONOURABLE SRI JUSTICE B.VIJAYSEN REDDY

WRIT PETITION NO: 3570 OF 2024

Between:

P.V. Varada Raj, S/o Late P. Vasudevan Aged 53 years, Occ. Private Service, R/o.5964 Laurel Ln, Apt 2123, Willowbrook, IL 60527 USA. Temporarily Residing at. H.No 10-5-807/1, Nandanar Nagar, Tukaram Gate, Secunderabad.

...PETITIONER

AND

1. State of Telangana, Rep by its Principal Secretary Dept of Welfare of Women Children Disabled and Senior Citizens, Secretariat, Hyderabad.
2. The District Collector, Medchal -Malkajiri District, Telangana State.
3. The Revenue Divisional Officer, and Sub Divisional Magistrate, Malkajiri Division, Medchal -Malkajiri District - 500094 Telangana State.
4. Assistant Commissioner of Police, Kushaiguda, Medchal -Malkajiri District, Telangana State.
5. Station House Officer, Neredmet Police Station, Malkajiri, Medchal - Malkajiri District, Telangana State.
6. R.G. Vijaya Laxmi, D/o Late R.G. Gunaseelan Aged 74 years, R/o. H.No. 37-93-223/1, Road No. 4, Sainik Vihar, Madhura Nagar, Neredmet X Roads, Secunderabad -500056.
7. R.G. Muralidhar, S/o Late R.G. Gunaseelan Aged 55 years(Actual Age 72 yrs), R/o. H.No. 37-93-223/1, Road No. 4, Sainik Vihar, Madhura Nagar, Neredmet X Roads, Secunderabad -500056.
8. R.G. Mudhusudhar, S/o Late R.G. Gunaseelan Aged 55 years(Actual Age 72 yrs), R/o. H.No. 37-93-223/1, Road No. 4, Sainik Vihar, Madhura Nagar, Neredmet X Roads, Secunderabad -500056.
9. R.G.Krishna Murthy, S/o Late RG. Gunaseelan, Aged 67 yrs, R/o. 40-B, Pink Apartments, Nasirpur, Dwarka, New Delhi -110045.
10. R.G. Surekha Rayapet, W/o C.D. Rajashekahar Aged 61 yrs, R/o 5-12-208, Plot No 95, Mangapuram, H.B.colony, Moula-ali -500040, Telangana.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to direct the respondents 2 to 5 more particularly respondents 2 and 3 to cause enquiry with respect to welfare and medical condition of the 6th respondent in accordance to The Maintenance and Welfare of Parents and

Senior Citizens Act, 2007 and Rights of Persons with Disabilities Act, 2016 and thereby grant custody of the 6th respondent to the petitioner from the custody of 7th and 8th respondents and consequently direct the respondent 4 and 5 to take legal action according to law on complaint made by the petitioner dated 08-10-2023 as the 6th respondent is in illegal confinement, medical and financial abuse by the respondents 7 to 10 more particularly 7 and 8 respondents

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents 2 to 5 to take immediate measures to take the 6th respondent for medical examination from 7th and 8th respondents by providing access to the petitioner and his family members to visit and supervise 6th respondent while undergoing medical examination

Counsel for the Petitioner: SRI P. VAMSHEEDHAR REDDY

Counsel for the Respondent No.1: GP FOR WOMEN DEV CHILD WELFARE

Counsel for the Respondent Nos. 2&3: AGP FOR REVENUE

Counsel for the Respondent Nos. 4&5: AGP FOR HOME

Counsel for the Respondent Nos. 6to8 SRI CH. SRINIVAS

Counsel for the Respondent Nos. 9&10:--

The Court made the following: ORDER

HONOURABLE SRI JUSTICE B. VIJAYSEN REDDY

WRIT PETITION No.3570 OF 2024

ORDER:

This writ petition is filed seeking a direction to respondent Nos.2 to 5, more particularly respondent Nos.2 and 3, to cause enquiry with regard to welfare and medical condition of respondent No.6 in accordance with the provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (for short 'Senior Citizens Act, 2007') and also under the provisions of the Rights of Persons with Disabilities Act, 2016 (for short 'Disabilities Act, 2016') and thereby to grant custody of respondent No.6 to the petitioner; and also a further direction to respondent Nos.4 and 5 to take legal action on the complaint made by the petitioner on 08.10.2023.

2. The case of the petitioner is that respondent No.6 is his maternal aunt (younger sister of his mother Mrs. P. Chandra Lekha). Respondent No.6 is suffering from Dementia (short term memory loss) for the last ten years. She lived with the mother of the petitioner for about 45 years at their house at Tukaram Gate, Secunderabad. As respondent No.6 was suffering from Dementia, the petitioner arranged for her medical treatment and had been taking care of her medical expenses. The petitioner has handed over Debit card and Credit card to respondent No.7 for emergency needs of respondent No.6. It is

further stated that respondent No.6 has two bank accounts i.e., SBI Account No.30060809449 and Kotak Account No.2612209642. The petitioner is the nominee of both the bank accounts of respondent No.6. The uncles of the petitioner i.e., respondent Nos.7 to 9 have changed the bank account details of respondent No.6 by altering the email ID and mobile number of the petitioner without his knowledge and consent. They have misguides respondent No.6 and her funds in the Bank and also her rental income are being misused by respondent Nos.7 to 9 since April, 2023. Respondent Nos.7 to 9 are not allowing the petitioner to speak to respondent No.6 personally or through phone. The condition of respondent No.6 is deteriorating day by day and she had been diagnosed with Parkinson's disease in March, 2023 and, thus, requested action to be taken against respondent Nos.7, 8 and 9.

3. Learned counsel for the petitioner submitted that being nephew of respondent No.6, the petitioner has taken up the responsibility of respondent No.6 and he desires to take her to USA to give best treatment, and as there is danger to the life of respondent No.6, the petitioner wanted interim custody of respondent no.6 to be given to him.

4. However, learned counsel for respondent Nos.6 to 8 submitted that there are no merits in the writ petition. The petitioner



does not have any *locus standi* to institute this writ petition, and moreover, there is no provision under the Senior Citizens Act, 2007 or under the Disabilities Act, 2016, whereby the petitioner, who is a far off relative, can seek for custody of respondent No.6.

5. The same is countered by learned counsel for the petitioner. It is submitted that the provisions of the Disabilities Act, 2016 are applicable to the facts of this case. The petitioner is the relative of respondent No.6 and he has a right to seek custody of respondent No.6.

6. As could be seen from the record, the petitioner has approached the Station House Officer, Neredmet Police Station, Malkajgiri, by lodging a complaint/representation dated 08.10.2023. In the representation, the petitioner alleged that respondent Nos.7, 8 and 9 are mistreating respondent No.6 taking advantage of her helpless condition. That the petitioner, who is resident of USA, has rushed to Hyderabad to take custody of respondent No.6 and he intends to take her along with him to USA so that she can be given medical treatment in USA. It is also stated that the petitioner had taken appointment with a Neurologist in USA on 30.10.2023.

7. On 26.02.2024, when the matter was heard by this Court, it was contended by learned counsel for the petitioner that the health

condition of respondent No.6 has worsened and she has to be sent to medical examination under the provisions of the Disabilities Act, 2016. However, in order to make preliminary evaluation of the health condition of respondent No.6, her personal presence was ordered.

8. As directed by this Court on 26.02.2024, respondent No.6 personally appeared before this Court today. I have interacted with respondent No.6 - Mrs. R.G. Vijaya Laxmi, who is present in the Court. She has clearly stated that respondent No.7-Mr. R.G. Muralidhar, respondent No.8-Mr. R.G.Madhusudhan, respondent No.9-Mr. R.G. Krishna Murthy are her brothers and respondent No.10-Mrs. R.G. Surekha Rayapet is her sister. She is staying in the company of respondent Nos.7 to 10 and they are taking care of her. When this Court asked a specific question to respondent No.6 whether she is interested in staying with the petitioner, respondent No.6 stated that she is not interested and she would like to stay in the company of respondent Nos.7 to 10.

9. In the *prima facie* opinion of this Court, respondent No.6 is in a position to exercise discretion and take decisions in her interest. She is physically and mentally stable though some of the questions put to her by this Court have not been answered by her. The overall appearance of respondent No.6 seems to be stable and she has

responded to all the questions put by this Court. Thus, this Court is not inclined to pass any orders in this writ petition.

10. Accordingly, this writ petition is disposed of. However, liberty is given to the petitioner to approach appropriate authority under the provisions of the Rights of Persons with Disabilities Act, 2016 or any other Act and take necessary measures for sending respondent No.6 to medical examination or for interim or permanent custody. The petitioner is also given liberty to seek interim orders before the appropriate authority. No order as to costs.

As a sequel thereto, miscellaneous applications, if any, pending in this writ petition stand closed.

SD/-N.CHANDRA SEKHAR RAO
ASSISTANT REGISTRAR

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SECTION OFFICER

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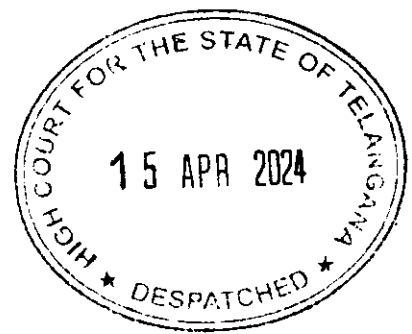
1. The Principal Secretary Dept of Welfare of Women Children Disabled and Senior Citizens, Secretariat, Hyderabad.
2. The District Collector, Medchal -Malkajgiri District, Telangana State.
3. The Revenue Divisional Officer, and Sub Divisional Magistrate, Malkajgiri Division, Medchal -Malkajgiri District - 500094 Telangana State.
4. The Assistant Commissioner of Police, Kushaiguda, Medchal -Malkajgiri District, Telangana State.
5. The Station House Officer, Neredmet Police Station, Malkajgiri, Medchal -Malkajgiri District, Telangana State.
6. Two CCs to GP FOR WOMEN DEVELOPMENT AND CHILD WELFARE, High Court for the State of Telangana, at Hyderabad [OUT]
7. One CC to SRI. P. VAMSHEEDHAR REDDY, Advocate [OPUC]
8. Two CD Copies

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HIGH COURT

DATED:04/03/2024



ORDER

WP.No.3570 of 2024

DISPOSING OF THE WRIT PETITION
WITHOUT COSTS

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15/4/24
JRS