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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 14th AUGUST, 2024

IN THE MATTER OF:

+ **W.P.(C) 12438/2023**

JAGRITI VERMA

..... Petitioner

Through: Mr. Amit Gupta and Mr. Prateek
Mehta, Advocates.

versus

STATE OF N.C.T. OF DELHI & ORS.

..... Respondents

Through: Mr. Udit Malik, ASC with Mr. Vishal
Chanda, Advocate.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. Petitioner has filed the instant Writ Petition for a direction to the Respondents to register the relinquishment deed dated 19.07.2023 pertaining to property No. F-14, Vijay Block, Aruna Park, Laxmi Nagar, Delhi-110092 (*hereinafter referred to as 'the Property in question'*), executed in favour of the Petitioner herein by her sons, including Mr. Anmol Verma, who is 100% mentally retarded.
2. The facts of the case disclose that the Petitioner and one Late Mr. Pankaj Verma got married in 1996 and out of the said wedlock two children, namely, Mr. Anmol Verma and Mr. Maanav Verma, were born on 27.10.1997 and 06.12.2001 respectively. Both the children are majors as on date. Mr. Anmol Verma is mentally retarded. A certificate dated 26.12.2016, issued by the Institute of Human Behaviour & Allied Sciences (*hereinafter*



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referred to as 'the IHBAS'), has been filed along with the Writ Petition to show that Mr. Anmol Verma is suffering from Mental Retardation and has been diagnosed with Profound MRLSQ-19 having 100% mental disability. The said certificate is reproduced herein and the same reads as under:

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INSTITUTE OF HUMAN BEHAVIOUR & ALLIED SCIENCES
(Hospital based autonomous academic Institute, under
Government of National Capital Territory of Delhi, dealing with
"Brain - Mind Problems & their Solutions")
Dishnah Garden, Delhi 110 005 (India)
Tel: 2011 2190 Fax: 2000 8127, Email: director@ihbas.ac.in website: ihbas.ac.in

ANNEXURE P-1

"FORM - IX"
DISABILITY CERTIFICATE
(ISSUED BY SINGLE MEDICAL AUTHORITY)

Certificate No. MR-698 Date 26/04/2016. This is to certify that I have personally examined Sri / Smt. / Kom.
Anmol verma son / wife / daughter of Manoj verma
Date of Birth 24/10/1992 Age 19 Years Sex Male Registration No. 2016-5-28163 permanent
resident of House No. 28/49 Geta Colony Delhi-110031 whose photograph is

affixed above, and am satisfied that he/she is a case of Mental Disability. His / Her extent of
percentage physical / mental disability has been evaluated as per the approved guidelines which is permanent / temporary in nature
and is shown against the relevant disability in the table below:

S.No.	Disability	Diagnosis	Mental disability (in % age)
1.	Mental Illness	X	0
2.	Mental Retardation	Profound MRLSQ-19	100%

The above condition is progressive / non-progressive / likely to improve / not likely to improve.
Reassessment of disability is: not necessary OR is recommended after 10 years / 12 months, and therefore this certificate shall be valid
till X.

The applicant has submitted the following document as proof of residence:

Nature of document	Date of issue residence proof	Details of authority issuing certificate
<u>Aadhar Card No- 596165487460</u>	<u>09/08/2016</u>	<u>Government of India</u>

(Authorized Signatory of the notified Medical authority)

3. Since Mr. Anmol Verma is 100% mentally retarded, the Petitioner herein has been appointed his legal guardian under the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (*hereinafter referred to as 'the Multiple Disabilities Act'*). The said certificate mandates the obligations of the Legal Guardian and the same are as under:

- Maintenance and Residential Care of the Ward
- Management of immovable property of the Ward



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- Management of movable property of the Ward
- Other

4. It is pertinent to mention at this juncture that Mr. Pankaj Verma, i.e. the husband of the Petitioner herein, passed away on 11.09.2021 intestate leaving behind his wife and two children. It is stated that apart from the property in question, in which Mr. Pankaj Verma had 25% share, Mr. Pankaj Verma had two other properties, namely property bearing 998-999, Ward no. 16, Plot No. 15, Naiwala Estate, Shivaji Street no. 2, Karol Bagh, New Delhi-110005 & property bearing 2-A/49, Geeta Colony, Delhi- 110031. On the death of Mr. Pankaj Verma, a Surviving Member Certificate was issued to the Petitioner herein along with her two sons, i.e. Anmol Verma and Maanav Verma. A relinquishment deed dated 19.07.2023 executed by Maanav Verma and Anmol Verma (through his legal guardian) relinquishing the property in question in favour of the Petitioner herein was filed before the office of the Sub-Registrar for registration of the same. However, the Sub-Registrar refused to register the said relinquishment deed on the ground that Mr. Anmol Verma is mentally retarded.

5. Petitioner has, thereafter, approached this Court with the following prayers:

“a) Issue a writ in the nature of mandamus directing Respondent No. 1 to register the relinquishment deed dated 19.07.2023 executed in favor of the Petitioner;

b) Issue a direction to Respondents to not raise objections against registration of documents which are signed by the Petitioner as legal guardian of Anmol Verma;



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c) Pass any other order(s) that this Hon'ble Court may deem fit and proper in the facts of the present case."

6. Notice in the present Writ Petition was issued on 02.11.2023. The short question which arises for consideration in the present Writ Petition is as to whether this Court should direct the Sub-Registrar to register the Relinquishment Deed dated 19.07.2023 which has been entered into primarily for the purpose of the sale of the property in question, which has now been divided among the three surviving members upon the death of Mr. Pankaj Verma, or not.

7. The Multiple Disabilities Act has been brought for the welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities. At this juncture, it is pertinent to mention that Section 2(i) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (*hereinafter referred to as 'the Disabilities Act'*) defines disability and it includes mental retardation. Mental Retardation has been defined in Section 2(r) of the Disabilities Act to mean a condition of arrested or incomplete development of mind of a person which is specially characterized by sub normality of intelligence. The Multiple Disabilities Act defines Mental Retardation in Section 2(g) and the definition of Mental Retardation in Section 2(g) of the Multiple Disabilities Act and in Section 2(r) of the Disabilities Act are identical and the same reads as under:

"Mental Retardation" means a condition of arrested or incomplete development of mind of person which is specially characterised by subnormality of intelligence;"

8. The Disabilities Act does not deal with the properties of persons



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suffering from mental retardation. However, Section 3 of the Multiple Disabilities Act mandates constitution of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability, etc. and the same reads as under:

"3. Constitution of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability, etc. -

(1) With effect from such date as the Central Government may, by notification, appoint there shall be constituted, for the purposes of this Act, a body by the name of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities, which shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(2) The general superintendence, direction and management of the affairs and business of the Trust shall vest in a Board which may exercise all powers and do all acts and things which may be exercised or done by the Trust.

(3) The head office of the Trust shall be at New Delhi and the Board may, with the previous approval of the Central Government, establish offices at other places in India.

(4) The Board shall consist of-

(a) a Chairperson to be appointed by the Central Government from amongst the persons having



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expertise and experience in the field of autism, cerebral palsy, mental retardation and multiple disability;

(b) nine persons to be appointed in accordance with such procedure as may be prescribed from amongst the registered organisations out of which three members each shall be from voluntary organisations, associations of parents of persons with autism, cerebral palsy, mental retardation and multiple disability and from associations of persons with disability, members; Provided that initial appointment under this clause/shall be made by the Central Government by nomination;

(c) eight persons not below the rank of Joint Secretary to the Government of India nominated by the Government to represent the Ministries or Departments of Social Justice and Empowerment, Women and Child Development, Health and Family Welfare, Finance, Labour, Education, Urban Affairs and Employment and Rural Employment and Poverty Alleviation, Members, ex officio;

(d) three Persons to be nominated by the Board representing the associations of trade, commerce and industry engaged in philanthropic activities, members;

(e) The Chief Executive Officer, who, shall be of the rank of Joint Secretary to the Government of India, Member-Secretary, ex officio.

(5) The Board may associate with itself, in such manner and for such purposes as may be determined by regulations, any person whose assistance or advice



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it may desire for carrying out the objects of the Trust:

Provided that such person shall have a right to take part in the discussions relevant to that purposes but shall not have a right to vote at a meeting of the Board and shall not be a member for any other purposes:

Provided further that the maximum number of persons so associated shall not exceed eight and so far as possible persons so associated shall belong to the registered organisations or from the professionals. "

9. Section 10 of the Multiple Disabilities Act brings out the objects of the Trust and the same reads as under:

"10. The objects of the Trust shall be -

(a) to enable and empower persons with disability to live as independently and as fully as possible within and as close to the community to which they belong;

(b) to strengthen facilities to provide support to persons with disability to live within their own families;

(c) to extend support to registered organisations to provide need based services during period of crisis in the family of persons with disability;

(d) to deal with problems of persons with disability who do not have family support;

(e) to promote measures for the care and protection of persons with disability in the event of death of their parents or guardians;

(f) to evolve procedure for the appointment of



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guardians and trustees for persons with disability requiring such protection;

(g) to facilitate the realisation of equal opportunities, protection of rights and full participation of persons with disability; and

(h) to do any other act which is incidental to the aforesaid objects. "

10. A perusal of the abovementioned Section shows that the object of the Trust is to deal with the problems of persons with disabilities who do not have family support and to promote measures for the care and protection of persons with disabilities in the event of death of their parents or guardians.

11. Section 11 of the Multiple Disabilities Act deals with the duties of the Board and the same reads as under:

"11.

(1) The Board shall -

(a) receive from the Central Government a one-time contribution of rupees one hundred crores for a corpus, the income whereof shall be utilised to provide for adequate standard of living for persons with disability;

(b) receive bequests of movable property from any person for the benefit of the persons with disability in general and for furtherance of the objectives of the Trust in particular;

Provided that it shall be obligatory on the part of the Board to make arrangements for adequate



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standard of living for the beneficiary named in the bequest, if any, and to utilise the property bequeathed for any other purpose for which the bequest has been made;

Provided further that the Board shall not be under any obligation to utilise the entire amount mentioned in the bequest for the exclusive benefit of the persons with disability named as beneficiary in the bequest;

(c) receive from the Central Government such sums as may be considered necessary in each financial year for providing financial assistance to registered organisations for carrying out any approved programme.

(2) For the purposes of sub-section (1), the expression "approved programme" means-

(a) any programme which promotes independent living in the community for persons with disability by-

(i) Creating a conducive environment in the community;

(ii) Counseling and training of family members of persons with disability;

(iii) Setting up of adult training units, individual and group homes;

(b) any programme which promotes respite care, foster family care or day care service for persons with disability;

(c) setting up of residential hostels and residential



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homes for persons with disability;

(d) development of self-help groups of persons with disability to pursue the realisation of their rights;

(e) setting up Local Level Committee to grant approval for guardianship; and

(f) such other programmes which promote the objectives of the Trust.

(3) While earmarking funds for the purposes of clause (c) of sub-section (2), preference shall be given to women with disability or to persons with severe disability and to senior citizens with disability.

Explanation -For the purposes of this sub-section, the expression,-

(a) "persons with severe disability" shall have the same meaning as is assigned to it under sub- section (4) of section 56 of the Persons with Disabilities (Equal Opportunities. Protection of Rights and Full Participation) Act, 1995 (1 of 1996);

(b) "senior citizen" means a person who is above the age of sixty-five years or more. "

12. Section 11 postulates creation of Programmes for promoting the welfare of persons suffering from Autism, Cerebral Palsy and Mental Retardation and also for creation of conducive environment for persons suffering from Mental Retardation, Autism and Cerebral Palsy, etc. The Act also postulates for creation of programmes which promotes respite care, foster family care or day care service for persons with disability.



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13. Section 13 of the Multiple Disabilities Act deals with the constitution of Local Level Committees and the same reads as under:

"13. CONSTITUTION OF LOCAL LEVEL COMMITTEES-

(1) The Board shall constitute a local level committee for such area as may be specified by it from time to time.

(2) A local level committee shall consist of-

(a) an officer of the civil service of the Union or of the State, not below the rank of a District Magistrate or a District Commissioner of a district.

(b) a representative of a registered organisation; and

(c) a person with disability as defined in clause (f) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996).

(3) A local level committee shall continue to work for a period of three years from the date of its constitution or till such time it is reconstituted by the Board.

(4) A local level committee shall meet at least once in every three months or at such interval as may be necessary. "

14. Section 14 of the Multiple Disabilities Act provides that a parent of a person with disability or his relative may make an application to the local level committee for appointment of any person of his choice to act as a



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guardian of the persons with disability. The said Section reads as under:

"14. Appointment of guardianship -

(1) A parent of a person with disability or his relative may make an application to the local level committee for appointment of any person of his choice to act as a guardian of the persons with disability.

(2) Any registered organisation may make an application in the prescribed form to the Local Level Committee for appointment of a guardian for a person with disability. Provided that no such application shall be entertained by the local level committee, unless the consent of the guardian of the disabled person is also obtained.

(3) While considering the application for appointment of a guardian, the local level committee shall consider-

- whether the person with disability needs a guardian;

- the purposes for which the guardianship is required for person with disability.

(4) The local level committee shall receive, process and decide applications received under sub-sections (1) and (2), in such manner as may be determined by regulations:

Provided that while making recommendation for the appointment of a guardian, the local level committee shall provide for the obligations which are to be fulfilled by the guardian.

(5) The local level committee shall send to the Board the particulars of the applications received by it and orders passed thereon at such interval as may be



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determined by regulations. "

15. Section 15 of the Multiple Disabilities Act stipulates the duties of the Guardian and the same reads as under:

"15. Duties of Guardian – Every person appointed as a guardian of a person with disability under this Chapter shall, wherever required, either have the care of such persons of disability and his property or be responsible for the maintenance of the person with disability. "

16. Section 16 of the Multiple Disabilities Act provides that a Guardian has to furnish inventory and annual accounts and the same reads as under:

"16. Guardian to furnish inventory and annual accounts -

(1) Every person appointed as a guardian under section 14 shall, within a period of six months from the date of his appointment, deliver to the authority which appointed him, an inventory of immovable property belonging to the person with disability and all assets and other movable property received on behalf of the person with disability, together with a statement of all claims due to and all debts and liabilities due by such person with disability.

(2) every guardian shall also furnish to the said appointing authority within a period of three months at the close of every financial year, an account of the property and assets in his charge, the sums received and disbursed on account of the person with disability and the balance remaining with him."

17. Section 17 of the Multiple Disabilities Act deals with removal of Guardian and the same reads as under:



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" 17. *Removal of Guardian-*

(1) Whenever a parent or a relative of a person with disability or a registered organisation finds that the guardian is-

*(a) abusing or neglecting a person with disability;
or*

(b) misappropriating or neglecting the property, it may in accordance with the prescribed procedure apply to the committee for the removal of such guardian.

(2) Upon receiving such application the committee may, if it is satisfied that there is a ground for removal and for reasons to be recorded in writing, remove such guardian and appoint anew guardian in his place or if such a guardian is not available make such other arrangements as may be necessary for the care and protection of person with disability.

(3) Any person removed under sub-section (2) shall be bound to deliver the charge of all property of the person with disability to the new guardian, and to account for all moneys received or disbursed by him.

Explanation -For the purposes of this Chapter, the expression "relative" includes any person related to the person with disability by blood, marriage or adoption."

18. In the facts of the present case, the Petitioner has been appointed as the Guardian of Anmol Verma. A perusal of the abovementioned Sections shows that the Guardian has the right to manage the immovable as well as movable property of the person with disabilities. The Guardian can also take



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any decision for the Welfare of the person suffering from Disability. During the course of the arguments, it was stated by the learned Counsel for the Petitioner that the family of the Petitioner requires funds for meeting the expense of treatment of Anmol Verma. It is also stated that the Petitioner is willing to comply with any directions passed by this Court regarding one-third portion of the fund that will be generated after selling the property in question. It has also been stated that the Petitioner is ready to undertake that the one-third portion of the sale proceeds will be used solely for the benefit of Anmol Verma and his well-being.

19. There is no dispute that Anmol Verma is 100% Mentally retarded. The Certificate dated 26.12.2016, issued by IHBAS confirms that he is suffering from 100% retardation and his condition is so poor that he is unable to wear his own clothes. Anmol Verma is, therefore, incapable of managing his affairs let alone managing the property in question. The Petitioner who is the mother of Anmol Verma, has been appointed his Guardian and the Guardian has to look after the properties of the Disabled person. Section 16 of the Multiple Disabilities Act postulates that every person who is appointed as Guardian shall, within six months from the date of his/her appointment as Guardian, has to give an inventory of the assets belonging to the person with disability. The Guardian also has to submit an account of the property and assets in his/her charge, the sums received and disbursed on account of the person with disability and the balance remaining with him/her within three months of the close of every financial year.

20. In light of the Statutory framework and in view of the fact that Relinquishment Deed has been given in the favour of the Petitioner, this



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Court is of the opinion that the Relinquishment Deed can be registered subject to the Petitioner informing the Local Level Committee. In case the property in question is given on rent, one-thirds of the total rent received be put in a separate account and shall be used solely for the welfare of Anmol Verma and in case it is decided that the property in question is to be sold then also the Petitioner would have to take the permission of the Local Level Committee and the Local Level Committee has ensure that one-third amount of the sale proceeds is kept in a separate account or FRD bearing monthly interest and is used solely for the welfare and treatment of Anmol Verma. The Petitioner is also directed to follow the mandate of Section 16(2) of the Multiple Disabilities Act and give an account of the property and assets in his/her charge, the sums received and disbursed on account of the person with disability and the balance remaining with him/her within three months of the close of every financial year.

21. The Writ Petition is disposed of in the abovementioned terms.

22. Pending applications, if any, also stand disposed of.

SUBRAMONIUM PRASAD, J

AUGUST 14, 2024

Rahul