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O.P.No.824 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.01.2025

Coram:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Original Petition No.824 of 2024

Ganesan

... Petitioner

Vs.

Nil

... Respondent

Prayer: Original Petition has been filed under Clause 17 of the Letters Patent, read with Order XXI Rules 2 of Original Side Rules to appoint the petitioner as the guardians of the person of the intellectual disability person Santhi and permit the petitioner to represent her in A.S.SR.No.131884 of 2023 on the file of this Court.

For Petitioner : Mr.A.E.Ravichandran

ORDER

Mrs.Shanthi W/o.Ganesan alleged to suffer multiple diseases as per the certificate issued by the Professor, Department of Psychiatry, Chengalpattu Medical College & Hospital. The disability certificate falls within the definition under the National Trust for Welfare of persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.



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2.O.P.No.824 of 2024 is filed by Ganesan under Clause 17 of the Letters Patent, read with Order XXI Rules 2 of Original Side Rules to appoint him as Guardian for his wife Mrs.Shanthi. Relying upon the judgment of this Court rendered in *Inre C.Raghuraman* reported in 2022 SCC online Mad 9174, the present application is filed in the Original Side jurisdiction of this Court.

3.The learned Counsel Mr.A.E.Ravichandran referring this judgment as well as the judgment of the Full Bench of this Court, which has dealt with the subject jurisdiction of the Original Side in the Madras High Court submitted that the High Court in exercise of powers under Clause 17 of Letters Patent has jurisdiction over the matter since it touches upon the affairs of the mentally ill persons.

4.This Court after giving anxious consideration on the verdict given by the Full Bench of this Court dissented by two learned Judges as well as by a learned Single Judge in *Inre C.Raghuraman* is of the opinion that though this Court has jurisdiction to deal the matter as per the majority view of the Full Bench, the facts and circumstances of the case in hand warrants to dispose of the petition directing the petitioner to resort National Trust Act, which will be lesser cumbersome and also and more protective in nature from the point of the disabled person, namely Mrs.Shanthi. The reason for such a conclusion is that Clause 17 of the Letters



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Patent, which is invoked prior to independence and falls within the definition of Article 372 of the Constitution of India considered while testing the post independence Statute, namely, the Act which has been given effect since 2000 and the Special Act targeting the welfare of the persons suffering with multiple disabilities. The said Statute is a composite legislation providing rehabilitation, monitoring and supervision of the discharge of guardianship by the persons appointed to represent the intellectually disabled/multiple disabled persons.

5.The petitioner herein is a resident of Kallakurichi district. The person to whom he wants to be appointed as a guardian also resides with him at Kattukottai, Kallakurichi Taluk & District. The District Level Committee at Kallakurichi will be the competent authority to consider the petition of Ganesan and act in accordance with the provisions of the National Trust Act. Therefore, this original petition is disposed of with a liberty to the petitioner herein to approach the District Level Committee at Kallakurichi to the relief sought for. If any such application is made to the District Level Committee at Kallakurichi, it shall be considered in accordance with law and to be disposed of within a period of 90 days from the date of submitting the application.



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6. With the above observations and directions, this original petition stands

disposed of.

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Index : Yes/No.

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Dr.G.JAYACHANDRAN, J.

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