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O.P.No.214 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **23.06.2025**

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THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**

O.P.No.214 of 2025

P.Kamesh

...Petitioner

VS.

Nil

...Respondent

PRAYER: Original Petition filed under Clause 17 of the Letters Patent Act, 1865, praying that this Hon'ble Court may be pleased to appoint the petitioner as the manager of the properties of the intellectually disabled brother and permit the petitioner to manage, develop and sell the schedule mentioned estate and assets of his intellectually disabled brother namely P.Viknesh S/o.G.Paneerselvam aged about 28 years residing at No.105, Periya Streest, Keezhandurai village and post, Arakkonam Taluk, Ranipet District who is declared as intellectually disabled by the competent authority and the sale proceeds will be deposited accordingly.

For Petitioner : Mr.T.P.Prabakaran

ORDER

This petition is presented by the brother of Mr.P.Viknesh, who is said to be intellectually retarded person right from his birth. By this petition, the



petitioner seeks to appoint him as the guardian of the person and the property of Mr.P.Viknesh.

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2. The petitioner states that Mr.G.Paneerselvam was married to one Mrs.P.Rajeshwari and gave birth to four children, including the petitioner and the Ward Mr.Viknesh. The petitioner states that the father of the ward died on 17.02.2016 leaving behind the petitioner, the ward and his other two siblings as the only legal heirs, as his mother Mrs.P.Rajeswari had already predeceased his father on 16.10.2011. The petitioner submits that ward Mr.Viknesh was examined by the Special Medical Board for Disabled, District Headquarter Hospital Walajah, Vellore and a certificate was issued on 28.10.2005 stating that P.Viknesh was suffering from Down's syndrome with mental retardation of 60% disability. The petitioner further submits an order was passed by the Mental Health Review Board, Vellore on 20.02.2025, where the petitioner was appointed as the nominated representative of the Ward. The petitioner submits that after the death of his father he has been taking care of the ward by providing him with necessary care and adequate utilities. The petitioner submits that the property mentioned in the schedule of the petition was passed to his father Late.Mr.G.PaneerSelvam, vide the partition deed dated 23.07.2007. Hence



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the ward Mr.P.Viknesh is entitled to 1/4th share of the property as the one of the legal heir of Late Mr.G.PaneerSelvam. The petitioner concedes that the other two siblings of the ward Mr.P.Dinesh and Mrs.P.Surya have already submitted an undertaking before the Mental Health Review Vellore on 28.01.2025, expressing their consent to appoint the petitioner as guardian of the ward along with the permission to sell the ward's share in the schedule mentioned property to the petition. The petitioner contends that the intellectual disability along with the down's syndrome renders the ward Mr.P.Viknesh incapable of taking care of both himself and his share in the family property. Therefore, it is necessary to appoint the petitioner herein as the manager of the property of the person and properties of Mr.P.Viknesh.

3. The petitioner has examined himself as PW1, he has marked 11 documents as Ex.P1 to Ex.P11, which are listed in the foot of the order. He has marked the photocopy of the disability certificate of the ward as Ex.P4. The photocopy of the order dated 20.02.2025 issued by the mental Health Review Board has been marked as Ex.P5. The photocopy of the partition deed dated 23.07.2007 has been marked as Ex.P6. The death certificates of the father and mother of the ward has been marked as Ex.P7 and Ex.P8 respectively. The legal heriship certificate of Late Mr.G.Paneerselvam has



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been marked as Ex.P9 and from perusal of the same it can be established that the petitioner is the brother of the Ward. A perusal of Ex.P4 and Ex.P5 clearly substantiates that the ward Mr.P.Viknesh is intellectually disabled with 60% disability. The photocopy of the Aadhar Card of the Ward and the petitioner has been marked as Ex.P1 and Ex.P2. The original 'No objection' letter dated 28.01.2025 given by the petitioner's brother Mr.P.Dinesh and petitioner's sister Mrs.P.Surya as Ex.P10 and Ex.P11 respectively.

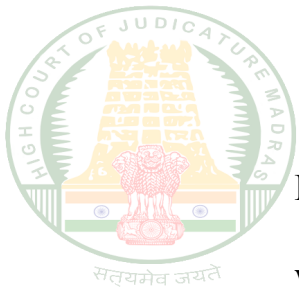
4. The assertions in the petition have been duly proved by adducing oral and documentary evidence. In these circumstances, the petitioner is entitled to the relief.

5. Accordingly, the original petition is allowed on the following terms;

(i) The petitioner is appointed as the guardian of the person and manager of the ward, Mr.P.Viknesh's share in property more fully described in the petitioner's schedule.

(ii) The petitioner is permitted to manage, develop and sell the ward Mr.P.Viknesh's share in the immovable property mentioned in the schedule to the petition.

(iii) The appointed guardian is directed to deposit the sale proceeds from Mr.P.Viknesh's share in any Nationalised



Bank and the same may be used for the medical purposes and welfare of the ward.

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(iv) The petitioner shall file an affidavit of compliance along with a statement of accounts in the registry.

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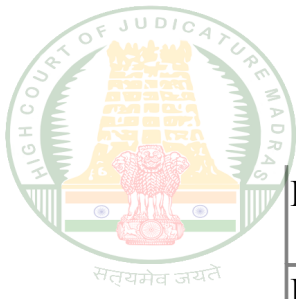
Index :Yes/No

Petitioner's witness:

P.W.1 – Mr.P.Kamesh

Documents exhibited by the petitioners:

Exhibits	Documents
Ex.P1	Photocopy of the Aadhar Card of the Insane person P.Viknesh. (Compared with original)
Ex.P2	Photocopy of the Aadhaar Card of P.W.1 / petitioner.(Compared with original)
Ex.P3	Photocopy of the passbook issued by District Disabled Rehabilitation officer, Vellore.(Compared with original)
Ex.P4	Photocopy of the disability certificate.(Compared with original)
Ex.P5	Photocopy of the order dated 20.02.2025 issued by Mental Health Review Board.
Ex.P6	Photocopy of the partition deed dated 23.07.2007.(Compared with original)
Ex.P7	Photocopy of the death certificate of G.Paneerselvam.
Ex.P8	Computer generated copy of the death certificate of P.Rajeswari.



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Ex.P9	Computer generated copy of the legal heir certificate of P.Paneerselvam.
Ex.P10	Original no objection letter dated 28.01.2025 given by the petitioner's brother, P.Dinesh.
Ex.P11	Original no objection letter dated 28.01.2025 given by the petitioner's brother, P.Surya.
	Certificate under Section 65 B of Indian Evidence Act is filed for Exs.P8 and P9.

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