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O.P.No.615 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **26.03.2025**

CORAM

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

O.P.No.615 of 2024

Mohammed Esmail

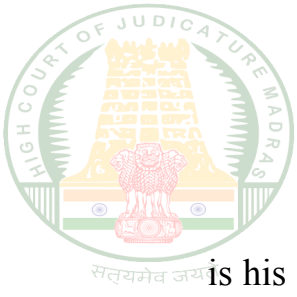
...Petitioner

PRAYER: Original Petition filed for appointment of a Guardian under Clause XVII of the Letter Patent of 1865, prayed that this Hon'ble Court may be pleased to appoint Mr.Mohamed Esmail, S/o.Mahammed Ibraheem, the petitioner herein, as the guardian of the person and manager of the properties of the mentally retarded person Mr.Mohammed Riyas, and permit the petitioner for operation and sale of his assets and liabilities, more fully set out in Schedule mentioned property hereunder.

For Petitioner : Mr.M.Ganesh Babu

ORDER

This petition is presented by the grand father of Mr.Mohammed Riyas, who is said to be mentally disabled person. By this petition, the petitioner seeks to appoint him as the guardian of the person and the properties of Mr.Mohammed Riyas.



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2. The petitioner states that the above said ward Mr.Mohammed Riyas is his grandson through his deceased son late.Mr.Mohamed Mustafa. The son of the petitioner and the father of the ward Late.Mr.Mohamed Mustafa died on 20.12.2012 and after his lifetime the petitioner has been taking care of all his legal heirs including the above said ward Mr.Mohammed Riyas. The ward along with his mother and siblings have been staying with the petitioner. The petitioner states that the above said ward Mr.Mohammed Riyas has been assessed with 70% disability. Therefore, it is necessary to appoint the petitioner herein as the manager of the properties of the person and properties of Mr.Mohammed Riyas .

3. The petitioner has examined himself as PW1. He has produced a photocopy of a disability certificate issued by the State Resource Cum Training Centre for Differently Abled Persons, K.K.Nagar, Chennai, where he is diagnosed with the case of Mental Retardation as ExP2 and the photocopy of the Unique Disability ID which states that the ward has been suffering from Autism Spectrum Disorder with 70% disability issued by the Government of India as ExP3. The death certificate of Late.Mr.Mohammed Mustafa as Ex.P4. The paper publications were made and are marked as



Ex.P10 and Ex.P11, no objections were received for the same.

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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 properties described in the schedule as regards to Mr.Mohammed Riyas.
- (ii) the petitioner is permitted for operation and sale of the schedule properties provided its made for the benefit of the ward Mr.Mohammed Riyas.
- (iii) 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.Mohammed Esmail

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of the sale deed dated 15.06.1994 executed in favour of Mrs.N.M.K.Ayisha Gani (Compared with the original)
Ex.P2	Photocopy of the disability certificate of Mr.Mohammed Riyas along with the photocopy of the passbook issued to him by the Government of Tamilnadu (Compared with the original)
Ex.P3	Photocopy of the unique disability ID Card of Mr.M.Mohammed Riyas issued by the Government of India (Compared with the original)
Ex.P4	Computer generated death certificate of Mr.M.S.Mohammed Musthafa.
Ex.P5	Downloaded copy of the encumbrance certificate dated 27.12.2003 for the period from 01.01.1975 to 24.11.1994.
Ex.P6	Photocopy of my Aadhaar Card(Compared with the original)
Ex.P7	Photocopy of the Aadhaar Card of Mr.M.Mohammed Riyas (Compared with the original)
Ex.P8	Declaration of willingness to act as guardian.
Ex.P9	Certificate under Section 65 B of the Indian Evidence Act, 1872.
Ex.P10	Copy of paper publication effected in one issue of Tamil daily "Makkal Kural" dated 18.10.2024.



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<i>Exhibits</i>	<i>Documents</i>
Ex.P11	Copy of the paper publication effected in one issue of English daily "Trinity Mirror" dated 18.10.2024.

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