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O.P.No.678 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **06.08.2025**

CORAM

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

**O.P.No.678 of 2024**

P.Ravi

...Petitioner

vs.

1.Amma Kannu

2.P.Ramadoss

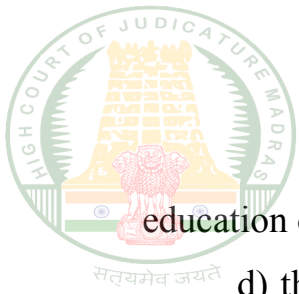
...Respondents

**PRAYER:** Original Petition filed under Sections 3, 7 to 10 and 29 of the Guardian and Wards Act read with Order XXI, Rules 2 and 3 of the Original Side Rules praying that

a) the petitioner P.Ravi may be appointed as the guardian of the person and property of the above named Minor R.Diviyesh.

b) the guardian may be at liberty to receive the available funds including the GPF, Gratuity funds, Pension Funds and other benefits etc., accrued in the account of deceased R.Ramesh, receivable from the police department of Tamil Nadu Government and deposit the same in the bank account of the Minor R.Diviyesh and operate the said bank account on behalf of the Minor R.Diviyesh and utilize the said amount for the education and other requirements for the Minor R.Diviyesh.

c) the sum of Rs.15000/- per month may be fixed for the maintenance and



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education of the minor R.Diviyesh.

d) the sum of Rs.5000/- per month may be allowed to the said guardian as his remuneration, in respect of the maintenance and education of the minor R.Diviyesh.

For Petitioners : Mr.P.Gunasekaran

For Respondent : *Ex parte*

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**ORDER**

This petition is filed by the paternal uncle of the minor, Master.R.Diviyesh, seeks to be appointed as guardian of the person and property of the above named minor Master.R.Diviyesh. The respondents 1 and 2 are the paternal grandmother and the other paternal uncle of the minor Master.R.Diviyesh.

2. The petitioner states that his father Mr.A.Perumal got married to the 1<sup>st</sup> respondent, the couple was blessed with six children in the duration of their marriage, namely the petitioner, the 2<sup>nd</sup> respondent, Mr.Selvaraj, Mr.P.Ramesh, Mrs.Kasthuri Alimuthu and Mrs.Aruna Ramakrishnan. The petitioner submits that one of his brother, Mr.P.Ramesh got married to one Mrs.Rekha and had begotten the above said minor Master.R.Diviyesh as his son on 31.10.2010. The petitioner further submits that the mother of the minor died on 21.07.2021, subsequently his brother who is the father of the minor also died on 16.02.2023, leaving behind his



minor son Master.R.Diviyesh and the 1<sup>st</sup> respondent as his only legal heirs. The petitioner further states that his father Mr.A.Perumal and one of his brother Mr.Selvaraj predeceased Mr.P.Ramesh. The petitioner duly submits that his brother and the father of the minor was employed as the Head Constable in the Police Department (Computer Section) and upon his demise the afore said legal heirs of him are entitled to claim the pension benefits and other benefits from the employer of the deceased.

3. The petitioner asserts that as the one of the legal heir of Late.Mr.P.Ramesh the minor Master.R.Diviyesh is entitled to claim the said benefits which arose due to the death of his father. The petitioner asserts that his mother and his only surviving brother Mr.P.Ramadoss, the respondents to the present petition who are both approximately aged about 79 and 61 respectively. Owing to the afore said age and health conditions the respondents are not in the position to act as the guardian of the minor and similarly the sisters of the deceased Late.Mr.P.Ramesh, who are the paternal aunts to the minor have got married and are settled with their family. Therefore the petitioner contends that as the brother of the deceased Late.Mr.P.Ramesh and as the closest male relative of the minor Master.R.Diviyesh, he is the more suitable to be appointed as the guardian of person and properties of the said minor Master.R.Diviyesh.



4. In order to establish entitlement to the relief claimed, the petitioner adduced evidence by examining himself as PW1. In the course of the examination in chief of PW1, 10 documents listed at the foot of this order were exhibited as Ex.P1 to Ex.P10. The computer generated copy of the birth certificate of the minor Master.R.Diviyesh has been marked as Ex.P5, which proves that the minor was born on 31.10.2010. The computer generated death certificates of the father and mother of the minor has been marked as Ex.P1 and Ex.P2 respectively. The computer generated legal heirship certificates of Late.Mr.P.Ramesh and his father, Late.Mr.A.Perumal has been marked as Ex.P3 and Ex.P7 respectively. The photocopy of the reply sent by the Police Department along with the letter of Accountant General (A&E) confirming the requirement of the Guardianship certificate from Court of Law has been marked as Ex.P8. The perusal of the Ex.P3 proves that the minor and the 1<sup>st</sup> respondent are the only legal heirs of Late.Mr.P.Ramesh and the perusal of Ex.P7 establishes the petitioner is the brother of Late.Mr.P.Ramesh, the deceased father of the minor and thereby proves that the petitioner is indeed the paternal uncle of the minor.

5. Evidencing the affidavit of Services on the respondent 1 and 2, it is established that the service of notices upon the respondents has been completed vide the order dated 10.07.2025. In spite of the service being completed the



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respondents chose to keep themselves away from the proceedings and hence both the respondents were set *ex-parte* vide the aforesaid order dated 10.07.2025.

6. Based on the evidence adduced by the petitioner, the petitioner is entitled to the relief claimed on the following terms:

(i) The petitioner is appointed as the guardian of the person and property of the said minor Master.R.Diviyesh.

(ii) The appointed guardian is at the liberty to receive the available funds including the GPF, Gratuity funds, Pension Funds and other benefits etc., accrued in the account of deceased Late.Mr.P.Ramesh, receivable from the Police Department of Tamil Nadu Government and deposit and deposit the same in the Nationalized bank account of the Minor.R.Diviyesh.

(iii) The appointed guardian is permitted to operate the afore said bank account on behalf of the minor Master.R.Diviyesh.

(iv) The sum of Rs.15,000/- per month is fixed for the maintenance and education of the minor Master.R.Diviyesh, maybe withdrawn by the appointed guardian.

(v) The sum of Rs.5000/- per month is allowed to the appointed guardian as his remuneration, in respect of the maintenance and education of Minor.R.Diviyesh.

(vi) File before this Court the accounts as regards to the transaction pursuant



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to this order and produce the copy of the fixed deposit receipts within six months before the Assistant Registrar (Original Side-II) of this Court.

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dsa

Index :Yes/No

**Petitioners' witness:**

P.W.1 – Mr.P.Ravi

**Documents exhibited by the petitioners:**

| Exhibits | Documents                                                                                                                    |
|----------|------------------------------------------------------------------------------------------------------------------------------|
| Ex.P1    | Computer generated copy of the death certificate of P.Ramesh died on 16.02.2023.                                             |
| Ex.P2    | Computer generated copy of the death certificate of Rekha died on 21.07.2021.                                                |
| Ex.P3    | Computer generated copy of the legal heir certificate of P.Ramesh dated 13.03.2023.                                          |
| Ex.P4    | Photocopy of the Aadhar Card of Minor R.Diviyesh. (Original is produced, compared and returned to the petitioner's counsel). |
| Ex.P5    | Computer generated copy of the birth certificate of Minor R.Diviyesh born on 31.10.2010.                                     |
| Ex.P6    | Photocopy of the Aadhar card of the petitioner. (Original is produced, compared and returned to the petitioner's counsel).   |
| Ex.P7    | Computer generated copy of the legal heir certificate of A.Perumal dated 25.05.2019.                                         |



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|--------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ex.P8  | Photocopy of the reply sent by the Police department along with the letter of Accountant General (A&E) confirming the requirement of the Guardianship certificate from the Court of law. |
| Ex.P9  | Photocopy of the lease agreement executed in favour of the petitioner dated 07.04.2023.                                                                                                  |
| Ex.P10 | Photocopy of the Gas supply receipt issued in the name of the petitioner.<br>Certificate under Section 65B of Indian Evidence Act is filed for Exs.P1, P2, P3, P5 & P7.                  |

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**K.KUMARESH BABU, J.**

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