



W.P.No.33818 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 31.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

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1. Dr.R.K.Sasankh,
S/o Late Ramachandran,
No.9, 3rd street, Shalimar Garden,
Injambakkam,
Chennai 600 115.

2. R.S.Nikunj

... Petitioners

Vs.

1. State of Tamil Nadu,
Rep. by its Secretary to Government,
Welfare of Differently abled persons Department,
Secretariat, Fort St. George,
Chennai 600 001.

2. The Secretary,
Ministry of Health and Family Welfare Department,
Government of Tamilnadu, Secretariat,
Fort St. George, Chennai 600 001.

3. The Collector, Chennai District,
Collectorate Office, 62, Rajaji Salai,
Chennai 600 001.

... Respondents

Prayer: Writ petition filed under Article 226 of Constitution of India



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seeking for issuance of Writ of declaration declaring the first petitioner herein as the guardian for the person and properties of his brother R.S.Jayant.

For Petitioners : Mr.R.Yashoel Vardhan, Senior Advocate
for Mr.C.Prasanth Gopal

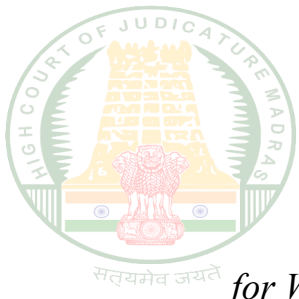
For Respondents : Mr. G.Ameedias, Govt. Advocate
for respondents 1 and 3
Mr.E.Sundaram, Govt. Advocate
for second respondent

ORDER

The writ petition is filed seeking declaration, declaring the first petitioner herein as the guardian for the person and properties of his brother R.S.Jayant.

2. The prayer in the writ petition was sought for mainly on the ground that the above said R.S.Jayanth is inflicted by Schizophrenia and he is not able to take any decision on his own.

3. It is stated by the learned Senior Counsel for the petitioners that the enactments dealing with the appointment of Guardian, namely, *The Rights of Persons with Disabilities Act, 2016, The National Trust*



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for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999, The Mental Healthcare Act, 2017, and The Guardian and Wards Act, 1890 are not providing appointment of Guardian to a person, who is inflicted with mental illness and unable to take decision as a result of such illness. It is also stated by him that though Section 14 of the Rights of Persons with Disabilities Act, 2016 enables the competent authority to appoint 'limited guardian' for the persons suffering from mental illness, appointment of 'limited guardian' may not serve any purpose in the present case, as the person afflicted with mental illness, is not in a position to take any decision. In support of his contentions, the learned Senior Counsel for the petitioners produced a certificate issued by the consultant Psychiatrist, placed at Geri Care Hospital, Adambakkam, Chennai.

4. A perusal of the above certificate issued by the Doctor would establish that the said R.S.Jayanth is able to give relevant replies to the questions asked to him and his thought process is in proper stream and form. Though it is stated by the petitioners that the said R.S.Jayanth is suffering from some kinds of mental illness, the certificate issued by the doctor does not say that he is incapable for taking any decision, so



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as to disqualify himself from participating in the consultation process, as contemplated under Section 14 of the Rights of Persons with Disabilities Act. Therefore, this court is not inclined to grant the prayer as sought for by the petitioners. However, it is open to the petitioners to move a competent authority under Section 14 of the Rights of Persons with Disabilities Act for appointment of 'limited guardianship'.

5. It is also made clear that if the mental condition of the person gets deteriorated in future and as a result of which he is made unsuitable for consultation process, as contemplated under Section 14 of the Rights of Persons with Disabilities Act, it is also open to the petitioners to approach this court with similar prayer.

6. With the above observations, this writ petition is disposed of.

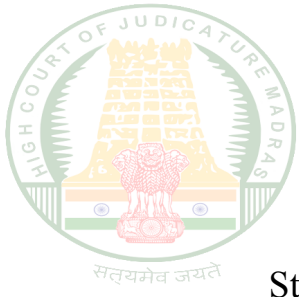
There shall be no order as to costs.

31.01.2025

Index: Yes/No
Internet: Yes/No
mst

To

1. The Secretary to Government,



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State of Tamil Nadu,
Welfare of Differently abled persons Department,
Secretariat, Fort St. George,
Chennai 600 001.

2. The Secretary,
Ministry of Health and Family Welfare Department,
Government of Tamilnadu, Secretariat,
Fort St. George, Chennai 600 001.
3. The Collector, Chennai District,
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S.SOUNTHAR, J.

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