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C.R.P.No.4746 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

C.R.P.No.4746 of 2025

and

C.M.P.No.23959 of 2025

Subramaniam

... Petitioner

Versus

1. Venkatachalam
2. Chandramathi, unsound mind person
Previously represented by guardian/mother D1
Appointed in I.A.No.3 of 2023 dated 05.10.2023
D/o.Late Komarappan @ Kumara Goundar
D.No.1/20, Sembaraipudur
Marurpatty Village
Namakkal Taluk and District

3. Gandhimathi

... Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 03.03.2025 passed in I.A.No.4 of 2024 in O.S.No.381 of 2023 on the file of the Principal District Judge, Namakkal.

For Petitioner : Mr.R.Vivek



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For Respondents : Mr.R.Ezhilarasan for R3

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ORDER

The unsuccessful fourth defendant in O.S.No.381 of 2023 on the file of Principal District Judge, Namakkal has preferred the present revision.

2. The above suit has been filed for specific performance by the first respondent Venkatachalam. Originally the suit was filed against one Kaliyammal (first defendant), Chandramathi (second defendant), who is an unsound person, was previously represented by her mother and natural guardian Kaliyammal (first defendant) appointed vide order dated 05.10.2023 in I.A.No.3 of 2023. Pending suit, the said Kaliyammal died and therefore, the plaintiff has filed a petition in I.A.No.4 of 2024 under Order XXXII Rule 3 of the Civil Procedure Code, 1908 to appoint Defendants 3 (Gandhimathi) and 4 (Subramaniam) as guardian for second defendant or to appoint any one of the Court guardian for the unsound mind person. Upon hearing either side, the Court below vide order dated 03.03.2025 appointed the third defendant Gandhimathi, who is the sister of second defendant, as guardian. Aggrieved over the same, the present Civil Revision Petition has been filed.

3. The learned counsel appearing for the revision petitioner would submit that the Court below ought not to have appointed the third defendant



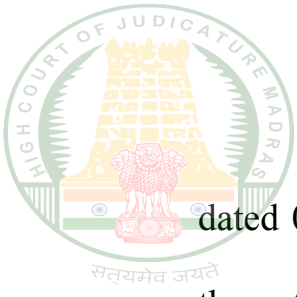
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as a guardian on the ground that the second defendant being a woman, third defendant being her sister, it is just and necessary to appoint D3 as guardian of D2 without considering Order XXXII Rule 15 of CPC in proper perspective. It is also submitted that when the fourth defendant, who is having sufficient financial stability, physical proximity and ability to safeguard the interest of second respondent, is also equally willing to act as a guardian, the trial Court ought not to have appointed the third defendant as a guardian of second defendant.

4. Per contra, the learned counsel appearing for the third respondent would submit that the second respondent, who is an unsound person, is sister of the third respondent and upon considering the facts and circumstances of the case, the court below has rightly appointed the third defendant as guardian of second defendant and there is no error or infirmity in the order passed by the Court below warranting interference by this Court.

5. This Court carefully considered the rival submissions and also perused the materials available on record.

6. It is seen that the second defendant/second respondent is an unsound mind person and was previously represented by the first defendant viz., Kaliyammal, who is her mother/guardian appointed by the Court vide order



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dated 05.10.2023 in I.A.No.3 of 2023. After the death of said Kaliyammal, the petitioner/plaintiff came forward with another application in I.A.No.4 of 2024 for appointment for guardian for the second defendant. Upon hearing either side, the Court below taking into consideration the fact that the second defendant is a woman, appointed the third defendant, who is the sister of second defendant, as guardian. In the considered view of this Court, there is no error or infirmity in the order passed by the Court below warranting interference by this Court. There is no merit in the revision and the same is liable to be dismissed.

Accordingly, this civil revision petition is dismissed. Consequently, the connected civil miscellaneous petition is closed. There shall be no order as to costs.

08.10.2025

Index : Yes/No
Speaking order : Yes/No
Neutral Case Citation : Yes/No
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M. JOTHIRAMAN, J.

gpa

To
The Principal District Judge
Namakkal

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