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O.P.No.08 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2025

CORAM

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**
O.P.No.08 of 2025

Isabella Malini

... Petitioner

PRAYER: Original Petition filed for appointment of a guardian filed under Clause XVII of the Letter Patent of 1865, prayed before this Hon'ble Court may be pleased to appoint Mrs.Isabella Malini, W/o. Mr.Baskaran, the petitioner herein, as the Guardian of the person and manager of the properties of the mentally ill person Mr.Thomas Sunendra Kumar and his assets more fully set out in the schedule and thereby render justice.

For Petitioner : Mr.Sharath Chandran

ORDER

This petition is presented by the sister of Mr.Thomas Surendra Kumar, who is said to be a Intellectually disabled person with cognitive deficits and impariment. By this petition, the petitioner seeks to appoint



O.P.No.03 of 2025

her as the guardian of the person and the properties of the ward

WEB COP Mr.Thomas Surendra Kumar.

2. The petitioner states that Late.Mr.R.S.Dhanapalan was married to Late.Mrs.Kasthuri Dhanapalan and gave birth to three children, who are the petitioner, the ward Mr.Thomas Surendra Kumar and Late.Mr.Stephen Rajasekaran. The petitioner states that her father Late.Mr.R.S.Dhanapalan was the absolute owner of the whole property through the Settlement Deed dated 17.06.1949 executed by her grandmother Late.Mrs.Esther Ammal in his favour. The petitioner states that her father was the absolute owner and enjoyed the property until his death, after the death of Late.Mr.R.S.Dhanapalan the property was inherited by his legal heirs, the petitioner who was one of the legal heir released her share through the Release Deed, therefore the property devolved upon rest of the legal heirs Late.Mrs.Kasthuri Dhanapalan, Mr.Thomas Surendra Kumar the ward and Late.Mr.Stephen Rajasekaran. The said legal heirs executed a partition deed dated 28.08.1986 where the property was divided into two schedules 'A' and 'B' in the partition deed, the schedule 'A' was



O.P.No.७३ of 2025

WEB COP

allotted to Late.Mrs.Kasthuri Dhanapalan and the ward Mr.Thomas

Surendra Kumar and the schedule 'B' was allotted to Late.Mr.Stephen

Rajasekaran who died on 24.10.2014. The mother of the petitioner

subsequently died on 19.03.2015 and she had executed a Will and

testament dated 07.05.1992, where she had bequeathed her share in the

property mentioned in the schedule equally in favour of the petitioner

and the ward Mr.Thomas Surendra Kumar. The petitioner submits that

the ward has been suffering from the intellectual disability which is not

likely to improve, along with the cognitive deficits and he is also

suffering from cataract, diabetes mellitus Type II and is currently under

the insulin therapy, all the above said physical and mental disabilities

renders the ward Mr.Thomas Surendra Kumar incapable of taking care

of himself and his assets. Therefore, it is necessary to appoint the

petitioner herein as the manager of the person and properties of

Mr.Thomas Surendra Kumar.

3. The petitioner has examined herself as PW1. She has produced a photocopy of the Psychological Assessment Report dated 28.12.2021 of Mr.Thomas Surendra Kumar issued by the National



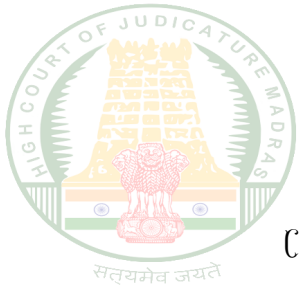
O.P.No.03 of 2025

Institute of Empowerment of Persons and Multiple Disabilities
WEB COP (NIEPMD) as the Ex.P9 and the photocopy of the disability certificate

issued by Dr.G.Vanishree, Institute of mental Health, Chennai as Ex.P10. The Settlement deed dated 17.06.1949 executed in favour of Late.Mr.R.S.Dhanapalan has been marked as Ex.P8. The photocopies of the death certificates of Late.Kasthuri Dhanapalan and Late.Mr.Stephen Rajasekaran have been marked as Ex.P3 and Ex.P4. The perusal of Ex.P9 and Ex.P10 clearly shows that the ward Mr.Thomas Surendra Kumar has been diagnosed and is suffering from 50% intellectual disability. The joint perusal of the deposition made by the petitioner, Ex.P9 and Ex.P10 proves the intellectual disability of the ward.

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;



O.P.No.७३ of 2025

WEB COPY

(i) The petitioner is appointed as the guardian of the person and manager of the properties described in the schedule as regards to the ward Mr.Thomas Surendra Kumar.

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

15.04.2025

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Index :Yes/No
Speaking: Yes/ No
Neutral Citation: Yes/No



O.P.No.०३ of 2025

WEB COPY

Petitioner's witnesses:

P.W.1 – Mrs.Isabella Malini

Documents exhibited by the petitioner:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	The Certified copy of the Registered partition Deed dated 28.08.1986.
Ex.P2	The photocopy of the Death Certificate of Stephen Rajasekaran dated 24.10.2014. (Online copy produced, compared and returned)
Ex.P3	The photocopy of the Death certificate of Kasthuri Dhanapalan dated 27.03.2015.(Online copy produced, compared and returned)
Ex.P4	The photocopy of the Pass Book from Department for the Welfare of the Differently Abled dated 21.01.2022. (Online copy produced, compared and returned)
Ex.P5	The photocopy of the Registered Will executed by Kasthuri Dhanapalan dated 07.05.1992 (Online copy produced, compared and returned).
Ex.P6	The photocopy of the Certificate Extract from the Town Survey Land Register dated 21.02.2024.
Ex.P7	The photocopy of the Sub-Division Patta dated 21.02.2024.
Ex.P8	The certified copy of the Settlement Deed dated 17.06.1949.
Ex.P9	The photocopy of the Psychological Assessment Report dated



O.P.No.७३ of 2025

<i>Exhibits</i>	<i>Documents</i>
	28.12.2021 (Compared with the original).
Ex.P10	The photocopy of the certificate of Disability issued by Institute of Medical Health, Chennai (Compared with the original)

Gba

15.04.2025



WEB COPY



O.P.No.08 of 2025

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Gba

O.P.No.08 of 2025

15.04.2025

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