



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2025

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.19892 of 2025

1. M.A.K.Nusaiba (Minor 14 years),
Represented by her father and natural guardian
Mohideen Abdul Kader.

2. K.S.M.Fathima Safrina ... Petitioners

[2nd petitioner is suo motu impleaded vide order of this Court dated 24.07.2025]

Vs.

1. The District Collector,
Tuticorin District.

2. The Revenue Divisional Officer,
Tiruchendur,
Tuticorin District.

[R-2 is suo motu impleaded vide order of this Court dated 24.07.2025]

... Respondents



WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue of ***Writ of Mandamus***, to appoint the petitioner as guardian for his minor daughter 14 years old M.A.K.Nisaiba and to permit the petitioner to create equitable mortgage and register the Memorandum of Deposit of title deeds in favour of State Bank of India, VOC Port Branch, Tuticorin or any Nationalised Bank and to give other directions which ever this Court.

For Petitioner : Mr.P.S.Subbaraman

For Respondents : Mr.M.Lingadurai,
Special Government Pleader

ORDER

This Writ Petition is filed for ***Writ of Mandamus***, to appoint the petitioner as guardian for his 14 years minor daughter namely M.A.K.Nisaiba and to permit the petitioner to create equitable mortgage and register the mortgage in favour of State Bank of India.



WEB COPY

2. The facts of the case are that the petitioner intended to create a mortgage with the State Bank of India in order to raise funds for a student namely Insaaf Sulaimaan. The said Insaaf Sulaimann is the son of the petitioner's eldest sister. The funds are necessary in order to secure admission in an educational institution in Australia. Insaaf Sulaimaan has already paid a substantial amount to the institution. However, there is a shortage. Hence the petitioner is intended to support the noble cause and to assist the petitioner's sister's son. Therefore, the petitioner had offered to mortgage the property which stands in the name of the minor and raise the necessary funds for the educational expenses.

3. The Learned counsel appearing for the petitioners submitted that, in order to protect the interest of the minor, M.A.K. Nusaiba, they are ready and willing to deposit 26 sovereigns of gold in minor's name.

4. The Learned Special Government Pleader appearing for the respondents vehemently opposed and submitted that the 1st respondent/District



WEB COPY

Collector has no jurisdiction at all. He further submitted that the remedy is available before the Civil Court by filing a Guardian Original Petition.

5. After hearing the arguments, this Court perused the document executed on 07.05.2024. It is seen that the mother of the minor has executed a settlement deed in favor of the minor, M.A.K. Nusaiba. However, the father of the minor has not executed the said document. Now, the father is seeking to be appointed himself as guardian and to create a mortgage deed. Hence the mother is necessary party. Therefore, this Court suo motu impleaded the mother as 2nd petitioner.

6. Due to peculiar circumstances of the case, this Court is of the considered opinion that the Revenue Divisional Officer is necessary party, hence this Court suo motu impleaded the RDO as 2nd respondent.



WEB COPY

7. Accordingly, both petitioners, namely, the father and the mother, shall be appointed as guardians by the 2nd respondent/ Revenue Divisional Officer. Thereafter, both of them shall execute an equitable mortgage in favour of the State Bank of India and raise the required amount. Further in order to protect the interest of the minor, M.A.K. Nusaiba, the petitioners are directed to deposit 26 sovereigns of gold in the name of the minor in any one of the Nationalised bank. The said exercise shall be completed with a period of two weeks from the date of receipt of a copy of this order.

8. With these directions, this writ petition is disposed of. No Costs.

Index : Yes / No
Internet : Yes

24.07.2025

KSA

Note : Issue a copy of order on 25.07.2025



WEB COPY

To

1. The District Collector,
Tuticorin District.
2. The Revenue Divisional Officer,
Tiruchendur,
Tuticorin District.



WEB COPY



S.SRIMATHY, J

KSA

Order made in
W.P(MD)No.19892 of 2025

24.07.2025