

(1897) 12 MAD CK 0025
In the Madras High Court

Venkayya

APPELLANT

Vs

Venkata Narasimhulu

RESPONDENT

Date of Decision : 13-12-1897

Acts Referred:

Guardians and Wards Act, 1890 — Section 7(3)

Citation : (1898) ILR (Mad) 401 : (1898) 8 MLJ 112

Judgement

1. Assuming that the will in this case is genuine (a question, however, which has not been tried), the appointment by it of a guardian cannot be held

to be such an appointment as comes within Section 7, Clause 3 of the Guardian and Wards Act; for, a Hindu mother has no authority to make

such appointment by will. It was, therefore, the duty of the Court to have enquired u/s 7 as to the necessity for appointing a guardian, and, if

necessary, to have appointed a fit and proper person. In making such appointment, he might very properly take into consideration the wishes of the

mother expressed in any genuine will.

2. We must, therefore, set aside the order of the District Judge and direct him to restore the petition to his file and to dispose of it according to law.

Costs will abide and follow the result.