

(1897) 12 MAD CK 0001
In the Madras High Court

Venkayya Garu

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

Hon'ble Judges : Subramania Ayyar, J;Benson, J

Bench : Division Bench

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 Guardians 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.