

W.P.(C) No.16849/26

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2026:KER:74368

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

SATURDAY, THE 26TH DAY OF SEPTEMBER 2026 / 4TH ASWINA, 1948

WP(C) NO. 16849 OF 2026

PETITIONER:

SMT.ANNAMMA P. SKARIA
AGED 76 YEARS
DAUGHTER OF SKARIA ITTAN
ROYAL HOME
THONNICKA, KOLENCHERY,
AIKKARANADU NORTH VILLAGE,
KUNNATHUNADU TALUK
KOLENCHERY P.O., PIN - 682311

BY ADVS.
SHRI.P.M.JOSHI
SMT.SIJI K.PAUL
SMT.SRUTHI SUNILKUMAR
SHRI. C. GOKULKRISHNAN

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF HEALTH AND FAMILY WELFARE,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 THE DISTRICT COLLECTOR
CIVIL STATION,KAKKANAD,
ERNAKULAM, PIN-, PIN - 680003



- 3 THE TAHSILDAR
TALUK OFFICE, KUNNATHUNAD TALUK,
KUNNATHUNAD, ERNAKULAM, PIN - 680020
- 4 SUPERINTENDENT
GENERAL HOSPITAL, ERNAKULAM,
PARK AVENUE ROAD, ERNAKULAM DISTRICT,
KERALA, PIN - 682011
- 5 THE MANAGER
FEDERAL BANK LIMITED, KOLENCHERY BRANCH,
KOLENCHERY, ERNAKULAM, PIN - 682311
- *6 ABRAHAM SKARIA
AGED 90 YEARS,
THONDIKKATTIL,
KOOOTHATTUKULAM.P.O, KOOOTHATTUKULAM,
ERNAKULAM DISTRICT, PIN -686662
- *7 THOMAS SKARIA
7627 WILTON CT, DARIEN,
IL60661, USA,
EMAIL: Rosiet015@gmail.com,
Ph:0016308526039, MOB NO.0016307458599

*(ADDL R6 AND R7 ARE IMPEADED AS PER ORDER DATED
19.06.2026 IN I.A No.1/26 IN WPC No.16849/2026

BY ADVS.

SMT.LAYA MARY JOSEPH, GOVT. PLEADER
SRI.JOHNSON GOMEZ
SRI.SANJAY JOHNSON
SHRI.SANJITH JOHNSON
SHRI.ARUN JOHNY
SMT.DEEBU R.
SHRI.ABIN JACOB MATHEW
SHRI.SANKETH SAJAN MATHEW

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 24.09.2026, THE COURT ON 26.09.2026 DELIVERED THE
FOLLOWING:



BECHU KURIAN THOMAS, J.

W.P(C) No.16849 of 2026

Dated this the 26th day of September, 2026

JUDGMENT

Petitioner is the sister of ninety three year old Ms. Saramma P. Skaria. Both of them are spinsters. The petitioner has approached this Court seeking for a direction to appoint her as the guardian of the person and property of her sister.

2. The petitioner alleges that her sister Ms. Saramma P. Skaria is suffering from advanced dementia and is bedridden with total dependence on her. Petitioner alleges that her sister is incapable of understanding or to take decisions or even to manage her personal and financial affairs. According to the petitioner, her sister is permanently incapacitated to manage her affairs and needs supervision and assistance for all her activities of daily living.

3. The petitioner asserts that her sister has substantial amounts deposited in the Federal Bank at Kolenchery, which are scheduled into three, as given below:



Schedule I.

Sl No.	Acc. No.	Date	Amount	Maturity Date	Maturity Amount
I	10062300015912	02-05-2024	17,91,644-00	02-05-2027	19,09,025-00
II	10062300024492	08-07-2025	8,41,077-00	08-07-2026	8,97,094-00
III	10112300073187	31-01-2026	10,19,002-00	31-01-2027	10,84,198-00
IV	10112300089571	04-12-2025	1,90,593-00	05-12-2026	2,03,259-00
V	10112400006160	05-01-2026	28,64,612-00	05-04-2027	28,64,612-00
VI	10112400007614	15-08-2025	17,14,560-00	02-11-2026	17,14,560-00
VII	10112400007622	16/08/25	2,50,000-00	03-11-2026	2,50,000-00

Schedule II.

SB NRE Account No. 10112100202473 with a balance of Rs. 31,604.10 (Rupees Thirty-One Thousand six Hundred and four and Paise ten Only) in Federal Bank.

Schedule III.

SB NRO Account transferred to Federal Bank Kolenchery Branch with account No. 10114100092342 with a balance of Rs. 5092.35 (Rupees Five Thousand and ninety two and Paise thirty five only).

4. The petitioner alleges that her sister is in such a condition that she is mentally, physically and intellectually impaired to the extent of being in a vegetative state and her dementia is in an incurable, progressive and hopelessly degenerative state. The petitioner further asserts that her sister is unable to understand the consequences of her acts and hence require a guardian to be appointed to take care of her and has approached this Court to manage her financial, medical and all



legal interests.

5. After hearing Sri. P. M.Joshi., the learned counsel for the petitioner and Smt. Laya Mary Joseph, the learned Government Pleader, this Court had, on 21.05.2026, directed the 4th respondent to constitute a Medical Board and submit a report regarding the medical condition of petitioner's sister - Ms. Saramma P. Skariah.

6. Pursuant to the said direction, a report of the Medical Board dated 01.06.2026 has been placed for consideration. The relevant part of the said report reads as follows:

GENERAL HOSPITAL, ERNAKULAM

Hospital Road, Ernakulam, Kerala 682011, INDIA

E-mail: generalhospitalernakulam@gmail.com
236125/2381762

Phone: 0484 2386000 /

Website: www.generalhospitalernakulam.com Fax : 0484-2382498

NO. C2/9822/2026

Date:01.06.2026

MEDICAL BOARD CERTIFICATE

Saramma P Skariah, 93 years, Female (DOB:10.06.1933) Resident of Thonnicka, Kolenchery, Ernakulam, was seen by medical team on 01.06.2026, 11 am at her residence.

She is an alleged case of dementia, requiring Court Order for incapacitation as demanded by her Bank for managing funds in her bank account.

Informants were the petitioner Annamma (Sister) and Jolly T. John (Nephew). She has a history of gradually progressive cognitive decline as told by the caretaker, in the form of decrease in memory, way finding difficulty and wandering behaviour. Gradually requiring support for activities of daily living.

Bystander also noted progressive slowing of gate and later requiring 2 persons support and currently bed bound state.

Now she is having bowel incontinence and is having foley's catheter



in situ.

She is completely dependent on bystanders for activities of daily living.

On examination:-

>She was lying in the bed with periodic spontaneous lower limb movements. Conscious but disoriented to time and place.

> Mild resistance for examination.

General Physical Examination:-

> Patient conscious, not oriented to time and place.

> Moderately Built and Nourished.

> No pallor, Icterus, cyanosis, clubbing, lymphadenopathy, oedema

Vitals :- (omitted as not relevant)

Cardio Vascular System:- (omitted as not relevant)

Respiratory System:- (omitted as not relevant)

Central Nervous System :-

> Higher mental function (MMSE) — difficult to administer as the patient is having difficulty in comprehending the questions.

> External ocular movements full

> No facial weakness

> Muscle Bulk normal.

Tone:- bilateral upper limb and lower limb rigid with the cogwheel phenomenon in both upper limbs.

Power:- was difficult to assess however she was moving all four limbs.

Reflexes:- deep tendon reflexes were exaggerated and plantar bilateral extensor.

Primitive Reflexes:- Palmo-mental and grasp reflexes present.

> Skull, spine normal.

> No neck stiffness.

The disability was assessed with IDEAS scoring, Functional assessment questionnaire and clinical dementia rating scale.

According to the Functional Assessment Questionnaire she was not able to- write cheques and paying bills, handling finance.

FAQ — 30/30 — Severe Dementia

IDEAS- score 18/20 — 99% Disability

Global CDR Scale — 3 (Severe Dementia)

Diagnosis:- Alzheimer's disease, Severe Dementia, Parkinsonism, Type 2 Diabetes Mellitus, Systemic Hypertension.



7. On a reading of the above report, it is evident that the sister of the petitioner is suffering from Alzheimer's disease, severe dementia, and Parkinsonism. The report indicates that the patient is unable to write cheques or pay bills or even to handle finance. She is bedbound and dependent on bystanders for activities of daily living with disorientation for time and place. The report also indicates that the patient is having difficulty comprehending questions. The above circumstances indicate that without the support of another permanently, she would not be able to take any decision or even manage her financial aspects.

8. In the decision in **Shobha Gopalakrishnan v. State of Kerala and Others** [2019 (1) KLT 801], a Division Bench of this court laid down the guidelines regarding appointment of a guardian by the High Court, when a person is in a comatose condition. Guidelines were framed by the Court after noting that in respect of persons lying in a comatose condition, no statutory prescriptions are in place for appointment of a guardian. Hence the Court exercised the parens patriae jurisdiction, and laid down guidelines for appointment of a guardian, for persons lying in a comatose condition. The case of a person suffering from Dementia or Alzheimer's have not been



considered in the said decision. Hence, the principle laid down therein cannot be imported mechanically into the present case.

9. Under the Schedule to the Rights of Persons with Disabilities Act, 2016 (for short 'RPwD Act'), dementia of the petitioner's sister will not qualify to be included under the term 'specified disability' for attracting the provision for appointment of limited guardian. Dementia of the petitioner's sister is not substantial but complete, as is evident from the medical report. Under RPwD Act, a provision for appointment of a limited guardian for a person with disability is provided under section 14. The District Court or the Designated Authority is conferred with the power to appoint a limited guardian for total support of a person with disability, as per the said provision. The said provision will not apply in the instant case since the guardianship under the said statute is limited in character, that too, to be taken in consultation with such disabled person. Thus, a case for appointing a permanent guardian does not exist for persons suffering from dementia under the provisions of RPwD Act.

10. Also, recourse cannot be made to the provisions of Mental Healthcare Act, 2017 in the instant writ petition as the dementia of the



petitioner's sister is complete and hence cannot be brought under the purview of section 2(1)(s) of the Mental Healthcare Act, 2017. Even if it is assumed that a nominated representative can be appointed under the Mental Healthcare Act, 2017, such representative does not have the right to look after the property of mentally ill persons by virtue of section 17 of the Mental Healthcare Act, 2017. In this context, it is apposite to refer to a decision of the High court of Bombay in **Vijay Ramachandra Salgaonkar v. State** [2021 SCC Online Bom 14114], wherein a Division Bench of the said Court permitted appointment of a guardian for a person suffering from dementia with diabetes mellitus and hypertension expressing the jurisdiction under Article 226 of the Constitution of India.

11. Dementia is an illness that results in the deterioration of memory, thinking and even the ability to perform everyday activities. It creates a dependency on other persons and worsens over the years. Alzheimer's has been identified as one of the common causes of dementia. A person affected with dementia and Alzheimer's loses his cognitive abilities, which starts worsening with age. Dependency on others for all activities of life, is an inevitable outcome, especially during old age. At such a stage when decisions cannot be taken and property



transactions cannot be comprehended, in the absence of a legally appointed guardian, the patient can be subjected to exploitation and prejudice. When the conditions are worse, the Court, if satisfied that the circumstances warrant, must appoint a guardian even for persons with dementia and Alzheimer.

12. On a reading of the Medical Report it is evident that Ms. Saramma P Skariah, 93 years old and sister of the petitioner, is suffering from a medical condition that requires, in the interests of justice, the appointment of a permanent guardian.

Hence, the petitioner, **Ms. Annamma P. Skariah**, D/o. Skaria Ittan, Royal Home, Thonnicka, Kolenchery P.O., Aikaranad North Village, Ernakulam, Kerala, PIN - 682311 is hereby appointed as the guardian of **Ms. Saramma P. Skariah**, D/o. Skaria Itten, Royal Home, Thonnicka, Kolenchery, Aikaranad North Village, Ernakulam, Kolenchery, Kerala, PIN - 682311 for dealing with the bank accounts mentioned in the Schedule in paragraph 3 of this judgment, subject to the following conditions;

(i) Periodical reports shall be filed by the guardian once in every six months before the Registrar General of this Court containing the particulars of all transactions done by the Guardian in respect of the



person and property of the patient besides showing the utilization of the funds received and spent by him/her.

(ii) The Registrar General shall cause an entry to be made with regard to the appointment of Guardian as ordered in this case, in the register maintained by this Court in terms of the directions in **Shobha Gopalakrishnan's** case (supra)

(iii) The Guardian shall, along with a copy of this judgment, intimate the Social Welfare Officer having jurisdiction over the place of residence, about the order of appointment as Guardian.

(iv) The transaction in respect of the accounts of petitioner's sister shall be strictly in accordance with the provisions of law.

(v) It shall be open for any relative or next friend or petitioner's sister to approach this Court for removal of Guardian, if any neglect, abuse of powers or such other grounds at the hands of the Guardian is noticed.

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(vi) The Guardian appointed shall seek and obtain specific permission from this Court, if he/she intends to transfer petitioner's sister from the jurisdiction of this Court to another State or Country, whether it be for availing better treatment or otherwise.

The writ petition is disposed of as above.

Sd/-

**BECHU KURIAN THOMAS
JUDGE**

vps



APPENDIX OF WP(C) NO. 16849 OF 2026

PETITIONER'S/S' EXHIBITS

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| Exhibit P1 | THE TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED BY DR. BAISHYA K RENUJI, MALANKARA ORTHODOX SYRIAN CHURCH MEDICAL COLLEGE HOSPITAL,KOLENCHERY DATED 29-04-2026 |
| Exhibit P2 | TRUE PHOTO COPY OF AADHAR CARD HAVING NO.4552 7427 1677 OF SMT.SARAMMA P. SKARIA |
| Exhibit P3 | TRUE PHOTO COPY OF AADHAR CARD HAVING NO.991938024778 OF THE PETITIONER |
| Exhibit P4 | THE TRUE COPY OF THE RELEVANT PAGE OF THEIR RATION CARD NO.1738122786 |
| Exhibit P5 | THE TRUE COPY OF THE RELATIONSHIP CERTIFICATE DATED 07-05-2026 IN RESPECT OF PETITIONER AND PATIENT ISSUED FROM THE IYKARANADU NORTH VILLAGE OFFICE |
| Exhibit P6 | THE TRUE COPY OF THE CONSOLIDATED STATEMENT OF ACCOUNTS SHOWING THE DETAILS OF DEPOSITS AND FUNDS DETAILED IN SCHEDULE I TO III ,DATED 5-5-2026 |
| Exhibit P7 | THE TRUE COPY OF THE WILL DATED 27.01.2014 EXECUTED BY THE PATIENT AND REGISTERED BEFORE SRO, KOOATHATTUKULAM IN FAVOUR OF JOBY T JOHN |
| Exhibit P8 | THE TRUE COPY OF THE WILL DATED 02.12.2015 EXECUTED AND REGISTERED BEFORE SRO, PUTHENCROUZ IN FAVOUR OF JOBY T JOHN |
| Exhibit P9 | THE TRUE COPY OF THE WILL DATED 27.01.2014 EXECUTED BY THE PATIENT AND REGISTERED BEFORE SRO, KOOATHATTUKULAM IN FAVOUR OF JOBY T JOHN |