

O.P.No.232 of 2015**K.RAVICHANDRABAABU, J**

This Original Petition has been filed under Sections 3, 7 to 10 and 29 of Guardian and Wards Act, 1890, read with Order XXI Rule 2 & 3 of the Original Side Rules of this Court, seeking for appointment of the petitioner as guardian of the person and property of the minor Nagavarshini and for permission to the petitioner to sell the minor's 1/14 share in the schedule mentioned property for a sum of Rs.12,50,000/- to Perambur Sri Ayyappa Trust and to deposit the sale proceeds in any of the nationalised Bank in the name of the minor viz., Ms.Nagavarshini, who was born on 12.12.2001 and resides at No.35, Anandavelu Street, Perambur, Chennai 600 011.

2. It is stated that the schedule mentioned property belonged to late Mr.P.S.Gajapathy Sah in pursuance of a deed of settlement dated 27.9.1958 and registered as document No.2423 of 1958, SRO West, madras and a subsequent release dated 24.11.1971 and was registered as document No.2134 of 1971, SRO, Purasawalkam. The aforesaid Mr.P.S.Gajapathi Sah died on 2.11.2005 leaving behind (1)Smt.G.Leela Bai (2)Mrs.H.Chinni Bai (3)Mrs.R.Suseela Bai (4)Mr.P.G.Shankar Sah (5)Mrs.S.Latha Bai as his legal heirs as evident from the legal heir certificate dated 13.7.2006 vide No.11640/2006.

Apart from the above legal heirs, the late Mr.P.S.Gajapathi Sah had two daughters viz., Mrs.Saroja Bai and Mrs.Shanthi Bai. Mrs.Saroja Bai died on 24.12.2012 leaving behind her husband Mr.J.V.Nagendra Sah, the petitioner herein and daughter Ms.N.Nagavarshini, as her only legal heirs. Mrs.Shanthi Bai had passed away on 22.7.2009 leaving behind her only son Mr.J.H.Gajendra Sah, as her only legal heir and the same is evident from the Legal Heirship Certificate (Ni.Mu.No.E3/39065/2010 dated 2.9.2010). Mrs.Shanthi Bai was a divorcee when she had passed away and the same is evident from the order passed by this Court, vide order dated 18.12.1997.

3. It is further stated that the petitioner, alongwith the said minor and other owners, are in possession of the schedule mentioned property till date, in which the minor is having 1/14 share. It is further stated that the petitioner has decided to sell the share of the minor in the schedule mentioned property as it is not producing any remuneration returns and in order to supply the minor with necessities. It is further stated that Perambur Sri Ayyappa Trust has agreed to purchase the schedule mentioned property for a sale consideration of Rs.1,75,00,000/- out of which, the minor's of 1/14 share would come to Rs.12,50,000/-. It is further stated that the money realized from the sale proceeds of minor's share would be used

in a way beneficial to the minor and to supply her with necessities. It is stated that the minor is now studying in VIII Standard.

4. The petitioner was examined as PW1 and Exs.P1 to P9 were marked, which are as follows:-

Ex.P1 Computer generated birth certificate of N.Nagavarshini,
who born on 12.12.2001.

Ex.P2 Photocopy of petitioner's Aadhaar Card bearing
No.830807625869
(marked after comparing and verifying with original).

Ex.P3 Photocopy of Settlement Deed dated 27.9.1958
executed by P.M.Subramanian and Krishnammabai in
favour of S.Ramachandran and S.Gajapathy in
respect of the property situated at Anandavelu
Mudali Street, Perambur
(marked after comparing and verifying with original).

Ex.P4 Photocopy of release deed dated 24.11.1971 executed
by S.Ramachandran in favour of S.Gajapathy in
respect of the property situated in Anandavelu
Mudali Street, Permabur
(marked after comparing and verifying with original)

- Ex.P5 Computer generated death certificate of
S.Gajapathy Sha, who died on 2.1.2005.
- Ex.P6 Photocopy of legal heirship certificate dated 3.7.2006
in respect of deceased father S.Gajapathy Sha
(marked after comparing and verifying with original).
- Ex.P7 Computer generated death certificate of
N.Saroja Bai, who died on 24.12.2012.
- Ex.P8 Photocopy of legal heirship certificate dated
20.11.2014 in respect of N.Saroja Bai
(marked after comparing and verifying with original).
- Ex.P9 Photocopy of agreement for sale dated 22.2.2015
entered into by Mrs.G.Leelabai and others with
Perambur Sri Ayyappa Trust in respect of the
property situate at Anandavelu Mudali Street,
Perambur
(marked after comparing and verifying with original).

5. The petitioner has also filed proof affidavit in support of the claim. The xerox copy of the agreement of sale entered into between

the petitioner and Perambur Sri Ayyappa Trust is marked as Ex.P9. A perusal of the agreement of sale shows that the entire property was agreed to be sold for a total consideration of Rs.1,75,00,000/-. The purchaser has also filed affidavit before this court stating that they intend to purchase the property for the said sum Rs.1,75,00,000/-.

6. Considering the abovesaid facts and circumstances and considering the fact that the petitioner is the natural guardian and father of the minor daughter and also considering the undertaking given by the petitioner to utilize the fund only for the benefit of the minor, this court is of the view that the Original Petition can be ordered. Accordingly, this petition is ordered, subject to the following terms and conditions:-

a) The petitioner is appointed as guardian of the person and property of the minor and is permitted to sell her 1/14 share in the schedule mentioned property for a sum of Rs.12,50,000/- to Perambur Sri Ayyappa Trust.

b) The said purchaser viz., Perambur Sri Ayyappa Trust shall deposit the sum of Rs.12,50,000/= in the name of the minor viz., Nagavarshini in Indian Bank, Madras High Court Branch, for a period of five years and renew the same periodically till the minor attains majority and the interest is permitted to be drawn by the petitioner for

the necessities of the minor.

c) On attaining majority, the said Nagavarshini shall get the receipt after filing due proof of attaining majority.

d) The petitioner shall file a compliance report within three months, enclosing the copies of the sale deed and fixed deposit receipt, and

e) The petitioner shall execute a Guardian Bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) to the satisfaction of the Assistant Registrar (O.S-II), High Court, Madras.

2.6.2015

ssk.

K.RAVICHANDRABAABU, J

ssk.

O.P.No.232 of 2015

2.6.2015