

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 17TH DAY OF JULY 2018

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

O.P. No.320 of 2018

In the matter of Guardian and
Wards Act, 1890

And

In the matter of minor Shrish

Mrs.Nirmala Mahesh,
W/o.Late M.Maheshkrishna,
22, Harini Avenue, (Near EB Colony),
Vadavalli, Coimbatore-641 041.

... Petitioner

Original Petition praying that this Hon'ble Court
may be pleased to pass an order:-

a) appointing the petitioner herein as guardian for
the person and property of the minor child Master Shrish,

b) permitting the petitioner to sell the 1/2 undivided
share of the minor son Shrish over the schedule mentioned
property to Mr.D.Naresh Babu for a sale consideration of
Rs.54,00,000/-,

c) permitting the petitioner to invest the sale
proceeds of minor's share in any nationalized bank in the
name of the minor son Shrish.

This Original Petition coming on this day before this
court for hearing the court made the following order:-

This Petition has been filed under Sections 3 and 7 to
10 and 29 of the Guardians and Wards Act, 1980 read with

Order XXI Rule 2 and 3 of Original Side Rules, seeking appointment of the petitioner as the Guardian of the person and property of minor Shrish and to permit the petitioner to sell the $\frac{1}{2}$ undivided share of the minor over the schedule mentioned property to Mr.D.Naresh Babu for a sale consideration of Rs.54,00,000/-.

2. The case of the petitioner is that the petition mentioned petition is a residential flat to an extent of 872 sq.ft. The said property was originally purchased by her husband Maheshkrishna on 30.05.2014. The said Mahesh Krishna died on 17.03.2015 leaving behind the petitioner and her minor child as his legal heirs. The parents of the deceased predeceased him. Since the petitioner wants to utilise the money for the welfare of the minor, she has filed the present petition for the relief stated supra.

3.The petitioner, who examined herself as P.W.1, reiterated the averments made in the petition and marked Ex.P.1 to P.10.

4. P.W.1 in her evidence has stated that the minor Shrish was born to the petitioner and her husband Maheshkrishna on 30.10.2008. Ex.P.3 is a copy of birth

certificate of the minor Shrish. Ex.P.6 is the original death certificate the said Maheshkrishna. Ex.P.5 is a copy of the sale deed in favour of the husband of the petitioner. Ex.P.6 shows that the husband of the petitioner died on 17.03.2015. The parents of the deceased predeceased him. Ex.P.7 is a copy of legal heirship certificate of the deceased. Ex.P.7 shows that the petitioner and the minor Shrish are the legal heirs of the deceased Maheshkrishna.

5. It is the further evidence of P.W.1 that for the betterment of minor and for the purpose of his education and investment in other properties, she has decided to dispose of the property and she had entered in a sale agreement Ex.P.8. Ex.P.8 shows that she has agreed to sell the property for a sum of Rs.54,00,000/-. Ex.P9 is the declaration of willingness to accept the office of guardianship in respect of the minor Shrish.

6. Considering the averments made in the petition and on perusing the materials available on record, I am of the opinion that the petitioner is entitled for the reliefs as sought for in the petition.

5. Accordingly, this petition is ordered, the petitioner is appointed as the Guardian of the person and property of the minor Shrish. The petitioner is also permitted to sell the $\frac{1}{2}$ undivided share of the minor Shrish over the schedule mentioned property to Mr.D.Naresh Babu for a sale consideration of Rs.54,00,000/- and the share of the minor shall be deposited in fixed deposit in any of the nationalized bank till the minor attains majority. The petitioner shall produce a copy of the deposit receipt within one month from the date of the execution of the sale deed in favour of the purchaser and the petitioner shall receive the accrued interest from the deposit for the purpose of the education of the minor Shrish. The petitioner shall execute a Guardian Bond for a sum of Rs.25,000/- in favour of Assistant Registrar O.S.(II), High Court, Madras.

Sd./-N.S.K.J

17/07/2018

//Certified to be true copy//

Dated at Madras this the day of 2018.

JJ 27/07/2018

COURT OFFICER(O.S.)

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