

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 11th DAY OF JANUARY 2018

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

O.P. No.918 of 2017

In the matter of Guardian and
Wards Act, (Act VIII of 1890)

And

In the matter of Master
G.J.Girish Krithik (minor)

Mrs.G.Jayam,
W/o.late Mr.P.Gopalakrishnan,
No.32, West Kulakarai Street,
Saidapet, Chennai-600 015.

... Petitioner

Original Petition praying that this Hon'ble Court may
be pleased that:-

a) the petitioner may be appointed (or declared to be)
the legal guardian of the person and property of the minor
G.J.Girish Krithik,

b) the share of the minor in the schedule mentioned
property may be sold as per the JV agreements dated 01.07.17
and the same may be deposited in the name of the minor in any
nationalised bank.

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

This Original Petition has been filed under Sections
3, 7 to 10 and 29 of the Guardians and Wards Act, 1890 read
with Order XXI Rules 2 and 3 of the Original Side Rules, to
appoint the Petitioner as the legal guardian of the person
and property of the minor, namely, G.J.Girish Krithik and to
administer the same.

2. It had been stated in this petition that the Petitioner, Mrs.G.Jayam is the mother of the above said minor Master G.J.Girish Krithik. The name of the minor is G.J.Krithik in the birth certificate which has been changed to G.J.Girish Krithik by a Gazette Notification dated 23.03.2016. The petitioner further stated that the property of an extent of 5 1/2 cents (2395 sq.ft) vacant land comprised in Survey Number 594/7, situated at No.149 Pallikaranai Village, Sholinganallur Taluk, Kancheepuram District, was purchased by her husband late Mr.P.Gopalakrishnan by a sale deed dated 14.12.09 registered as Doc.No.7742/10 Joint I SRO, Saidapet. The husband of the Petitioner died intestate on 18.06.2010, leaving behind his wife G.Jayam, the Petitioner and daughter Ms.Swetha, minor son Master G.J.Girish Krithik and parents Mr.P.Palanivelu and Mrs.P.Palaniammal as his legal heirs to succeed to his estate vide legal heirship certificate dated 11.08.2010 vide No.21799/2010 issued by Tahsildar, Mambalam-Guindy Taluk, Chennai. It had been stated that the petitioner has decided to develop the schedule mentioned property by constructing residential flats and sell the property for the benefit and advantage of the minor's education, the petitioner has come before this Court for seeking permission to sell the minor's share in the property who is entitled to 1/5 share of his

deceased father Mr.P.Gopalakrishnan.

3. It had been stated that she is the absolute owner of 8 cents (3488 sq.ft) out of 11 cents comprised in S.No.594/8 situated at Pallikaranai Village, Sholinganallur Taluk, Kancheepuram District, the same was purchased by her by a sale deed dated 31.12.2010 Joint I SRO Saidapet and the petitioner further stated that this property has also been given for development as stated above. But whereas minor share is not involved in this property.

4. It had been further stated that in the above circumstances the petitioner, for herself and as mother and guardian of the minor G.J.Girish Krithik, along with daughter Ms.Swetha and Mr.P.Palaniammal and Mr.P.Palanivelu had entered into Two Joint Venture agreements for an extent of 4458sq.ft and 5599 sq.ft with M/s.J.K.Builders represented by its Prop.A.K.Jabarullah Khan on 1.7.2017 for developing the property in the ratio of 55% to the developer and 45% to the owner and the same is also filed herewith. The total value of the property given for development is Rs.1,34,05,981/- wherein minor share is involved to an extent of Rs.82,08,614/- (less vide 3488 sq.ft belonging to the petitioner G.Jayam @ to 1,333/- per sq.ft. Thus the stage of the minor is Rs.16,41,722.80/-). It had further been stated

that she is the fit and proper person to be appointed as Guardian of minor G.J.Girish Krithik and the petitioner undertakes to maintain the minor until he attains majority. In such circumstances, this original petition has been filed for the reliefs as stated above.

5.The Petitioner, who has filed a proof affidavit, reiterating the averments made in the petition, for her chief examination, was examined as PW.1 and marked as many as eleven documents as Ex.P1 to Ex.P11 are as follows:-

- 1.Ex.P1 is the photocopy of birth certificate of minor son G.Krithik, who born on 18.04.2002. (Marked after comparing and verifying with the original)
- 2.Ex.P2 is the photocopy of Tamil Nadu Government Gazette dated 30.03.2016 in page No.783 with regard to change of name of minor son from G.Krithik to G.J.Girish Krithik. (Marked after comparing and verifying with the original)
- 3.Ex.P3 is the photocopy of death certificate of my husband P.Gopalakrishnan, who died on 18.06.2010 (Marked after comparing and verifying with the original)
- 4.Ex.P4 is the photocopy of the Legal Heirship Certificate dated 11.08.2010 in respect of my deceased husband P.Gopalakrishnan. (Marked after comparing and verifying with the original)
- 5.Ex.P5 is the photocopy of my Aadhaar card. (Marked after comparing and verifying with the original)
- 6.Ex.P6 is the photocopy of sale deed dated 14.12.2009 in favour of my husband P.Gopalakrishnan registered as Doc.No.7742/2010 at SRO, Madras South. (Marked after comparing and verifying with the original)

- 7.Ex.P7 is the photocopy of another sale deed dated 14.12.2009 in favour of my husband P.Gopalakrishnan registered as Doc.No.7743/2010 at SRO, Madras South. (Marked after comparing and verifying with the original)
- 8.Ex.P8 is the photocopy of another sale deed dated 14.12.2009 in favour of my husband P.Gopalakrishnan registered as Doc.No.7744/2010 at SRO, Madras South. (Marked after comparing and verifying with the original)
- 9.Ex.P9 is the photocopy of Joint Venture Agreement dated 15.04.2017 between Mrs.Jayam & others with M/s.JK Builders represented by its Prop.Mr.A.K.Jabarullah Khan. (Marked after comparing and verifying with the original)
10. Ex.P10 is the photocopy of Joint Venture Agreement dated 01.07.2017 between Mrs.Jayam & others with M/s.JK Builders represented by its Prop.Mr.A.K.Jabarullah Khan
- 11.Ex.P11 is the my declaration of willingness to accept the office of guardian of the person and property in respect of my minor son G.J.Girish Krithik.

PW.1 has also stated that they have not filed any other petition before any other Court seeking the same relief.

6. A perusal of the documents would prima facie indicate the relationship between the Petitioner and her minor son. Considering the relevant materials and after hearing the arguments, this Court is inclined to allow this petition.

7. Accordingly, this Original Petition is allowed, as prayed for. The Petitioner is appointed as the guardian of the person and property of the minor namely, G.J.Girish Krithik and ii) the share of the minor son namely G.J.Girish Krithik in the schedule mentioned property may be sold as per the JV agreements dated 1.7.2017 and the same may be deposited in the name of the minor in any nationalized Bank. The petitioner shall execute a Guardian Bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) in favour of the Assistant Registrar O.S.(II), High Court, Madras.

Sd./-C.V.K.J

11/01/2018

//Certified to be true copy//

Dated at Madras this the day of 2018.
JJ 21/02/2018

COURT OFFICER(O.S.)

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