

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 22nd DAY OF JANUARY 2018

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

O.P. No.998 of 2017

In the matter of the  
Guardians and Wards Act, VIII  
of 1890

And

In the matter of Divya  
Prabha, a minor resident at  
No.151, Big Street,  
Triplicane, Chennai-600 005.

1. Sathish Kumar Williams,  
aged about 51,  
S/o.G.S.C.William,

2. Latha Sathish Kumar Williams,  
aged about 48,  
W/o.Sathish Kumar Williams,  
1 & 2 are at No.151, Big Street,  
Triplicane, Chennai-600 005.

... Petitioners

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

a) declare the petitioners as the legal guardians of  
the minor Divya Prabha aged 7.

b) permit to sell the minor's property.

c) direct the minor amount to deposit in a nationalised  
bank.

#### **Schedule of Property**

All the house, ground and premises bearing Municipal  
Door No.12, in North Tank Square Street, Nungambakkam,  
Madras-34 bounded on the

North by : Vacant land of Agathiswarar Devasthanam;

South by : North Mada Street Tank Square;

East by : Door No.10 belonging to Kanna Pillai;

West by : Temple land well and Rajagopal Mudali's house

No.11

comprised in survey No.452 part containing 1 Ground 1950

sq.ft. or thereabouts and situate in the Registration District of Madras and Registration Sub-District of Thyagarayanagar.

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, 10 and 29 of the Guardians and Wards Act, 1890 read with Order XXI Rules 2 and 3 of the Original Side Rules, seeking the reliefs as follows:-

- a)To declare the Petitioners as the legal guardian of the person and property of the minor child, Divya Prabha, aged 7 years.
- b)To permit the Petitioners to sell the property of the minor mentioned Schedule.
- c)To permit the Petitioners to deposit the sale amount in a nationalised bank.

2. It had been stated in the affidavit filed in support of this original petition that the Petitioners 1 and 2 are father and mother of the minor child Divya Prabha, who is aged 7 years now studying in II Standard. The maternal grandmother, Dr.W.Rajeevi of the Petitioner, had purchased the Schedule mentioned property, by a registered sale deed dated 24.10.1969 registered as Document No.1609 of 1969. Dr.W.Rajeevi had executed a settlement deed dated 25.3.1975, registered as Document

No.379 of 1975, in the Office of the Sub Registrar, T.Nagar, in respect of the Schedule mentioned property, namely, Door No.12, North Tank Square Street, Nungambakkam, Chennai-34, measuring one ground and 1950 sq.ft. with house building in favour of the 1<sup>st</sup> Petitioner, who was a minor aged 7 years and represented by his parents, late G.SC.Williams and late Susheela Williams. In the said settlement deed, no power of alienation was given to the Petitioners and their children alone were entitled given equal shares and shall have powers of alienation by way of sale, gift, mortgage or otherwise.

3. It has been further stated that the suit property consists of a residential building and land and the building is very old and its stability is very poor and it is in a dilapidated condition. It has been further stated that for the benefit of the minor child, it is necessary to alienate the property and the sale amount will be deposited in the name of the minor child for her welfare. In view of the conditions of the settlement deed as stated above, the Petitioners are unable to demolish and alienate the Schedule mentioned property. The Petitioners are now sick and under bed rest and without the sale of the property, the Petitioner cannot do anything at this stage for the welfare of the minor child. In such circumstances, this original petition has been filed for the relief as stated above.

4. As per the directions of this Court dated 11.12.2017, directing recording of evidence, the matter was posted before the Master. The 1<sup>st</sup> Petitioner, who has filed a proof affidavit, reiterating the averments made in the petition, for his chief examination, was examined as PW.1 and Ex.P1 to Ex.P11 were marked. Ex.P1 to Ex.P11 are as under:-

- 1.Ex.P1 is the copy of the registered settlement deed dated 25.3.1975.
- 2.Ex.P2 is the copy of the death certificate of his maternal grand mother, who died on 19.10.1980.
- 3.Ex.P3 is the copy of the transfer certificate dated 18.7.1985.
- 4.Ex.P4 is the copy of the legal heirship certificate dated 21.12.1988 in respect of the maternal grand mother.
- 5.Ex.P5 is the copy of the death certificate of G.S.C.Williams, who died on 6.5.1999.
- 6.Ex.P6 is the copy of the certificate dated 2.11.2000 extract from the permanent land register.
- 7.Ex.P7 is the computer generated copy of the death certificate of Susheela Williams, who died on 28.3.2016.
- 8.Ex.P8 is the Tamil Nadu Government Gazette dated 16.08.2017 to show the name change.
- 9.Ex.P9 is the copy of the aadhaar card.
- 10.Ex.P10 is the computer generated copy of the birth certificate of the minor child, who was born on 16.5.2011.
- 11.Ex.P11 is the declaration of willingness.

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

5. Apart from the said evidence, an affidavit has also been filed by an intending purchaser/3<sup>rd</sup> party, by name, P.Thiru Gnanam. It is seen from the said affidavit that the said intending purchaser has stated that the value of the property is Rs.1,75,00,000/- and he is ready to purchase the Schedule mentioned property on getting permission from this Court.

6. In view of the above, this Original Petition is allowed, on the following terms:-

- a)The Petitioner is appointed as the guardian of the person and property of the minor child, Divya Prabha.
- b)The Petitioner is permitted to sell the property of the minor child mentioned in the Schedule to the said intending purchaser, P.Thiru Gnanam.
- c)The Petitioner is permitted to deposit the sale proceeds in any one of the nationalised banks in the name of the minor child.
- d)The Petitioners 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  
22.01.2018

//Certified to be true copy//  
Dated at Madras this the        day of        2018  
R.s/03.04.2018

COURT OFFICER(O.S.)

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