

O.P.No.716 of 2019

K.KALYANASUNDARAM., J

This Petition has been filed under Sections 3, 7 to 10 and 29 of the Guardians and Wards Act, 1890 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 S.M.Akthar Parvees and for permission to sell the property of the minor set out in the schedule and deposit the sale proceeds in the fixed deposit in any nationalized bank in the name of the minor and to withdraw the accrued interest once in three months for the maintenance of the petitioner.

2. The brief facts necessary for disposal of the original petition are as follows:-

The petitioner was married to one H.M.Satcha Mubarak and out of their wedlock, a son viz., S.M.Akthar Parvees was born on 04.03.2004 and the petitioner's husband passed away on 20.05.2011. The petitioner became absolute owner of the schedule mentioned property, vide sale deed dated 12.08.2011. Subsequently, the petitioner has settled the schedule mentioned property in favour of her minor son S.M.Akthar Parvees, by a

deed of settlement, dated 08.08.2015 and the same was registered as Document No.12436 of 2015, on the file of Joint Sub Registrar, Saidapet. The said settlement deed was cancelled by the petitioner by way of deed of cancellation of settlement deed dated 20.09.2018. It is the case of the petitioner that cancellation is not valid in the eye of law and her minor son is the owner of property as per the Settlement Deed executed by the petitioner.

3. The petitioner would state that since the property does not fetch any income and after the death of her husband, she is finding difficult to maintain the family and therefore decided to sell the schedule mentioned property to Mrs.Ponmozhi & Sasikumar for a sum of Rs.38,00,000/- and has further decided to deposit the sale proceeds in a Nationalized Bank till the minor attains majority.

4. The petitioner examined himself as P.W.1 and filed proof affidavit, reiterating the averments contained in the petition and marked Exs.P1 to P9 viz.,

Exs	Documents	Dated
P1	Computer generated birth certificate of her minor son S.M.Akthar Parvees, who was born on 04.03.2004	-
P2	Computer generated death certificate of her husband Satcha Mubarak, who died on 20.05.2011	-
P3	Photocopy of the Legal Heirship Certificate in respect of her husband Satcha Mubarak	01.06.2011
P4	Photocopy of sale deed registered as Document No.6536 of 2011, at SRO, South Madras	12.08.2011
P5	Photocopy of the settlement deed registered as Document No.12436 of 2015 at SRO, South Madras	08.10.2015
P6	Photocopy of the cancellation of settlement deed registered as Document No.10155 of 2018 at SRO, South Madras	20.09.2018
P7	Photocopy of the sale agreement in respect of the property mentioned in the petition	12.06.2019
P8	Photocopy of his driving license along with photocopy of his voter ID	-
P9	Declaration of Willingness to accept the office of guardian of person and property in respect of minor son S.M.Akthar Parvees	-

She has also stated that she has not filed any other petition before any other Court seeking the same relief.

5. 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.

6.In fine, this petition is ordered, by appointing the petitioner as the Guardian of the person of the minor S.M.Akthar Parvees. The petitioner shall execute a Guardian Bond for a sum of Rs.25,000/- in favour of the Assistant Registrar O.S.(II), High Court, Madras. The petitioner is permitted to sell property of her minor son-S.M.Akthar Parvees to one Mrs.Ponmozhi & Sasikumar for a sum of Rs.38,00,000/- [Rupees Thirty Eight Lakhs only]. The petitioner is directed to deposit the entire sale consideration in Indian Bank, Madras High Court Branch, Chennai in the name of the minor S.M.Akthar Parvees, till he attains majority. The petitioner as natural guardian of the minor is permitted to receive interest from the deposit, once in three months for uplift and livelihood of her minor son.

सत्यमेव जयते

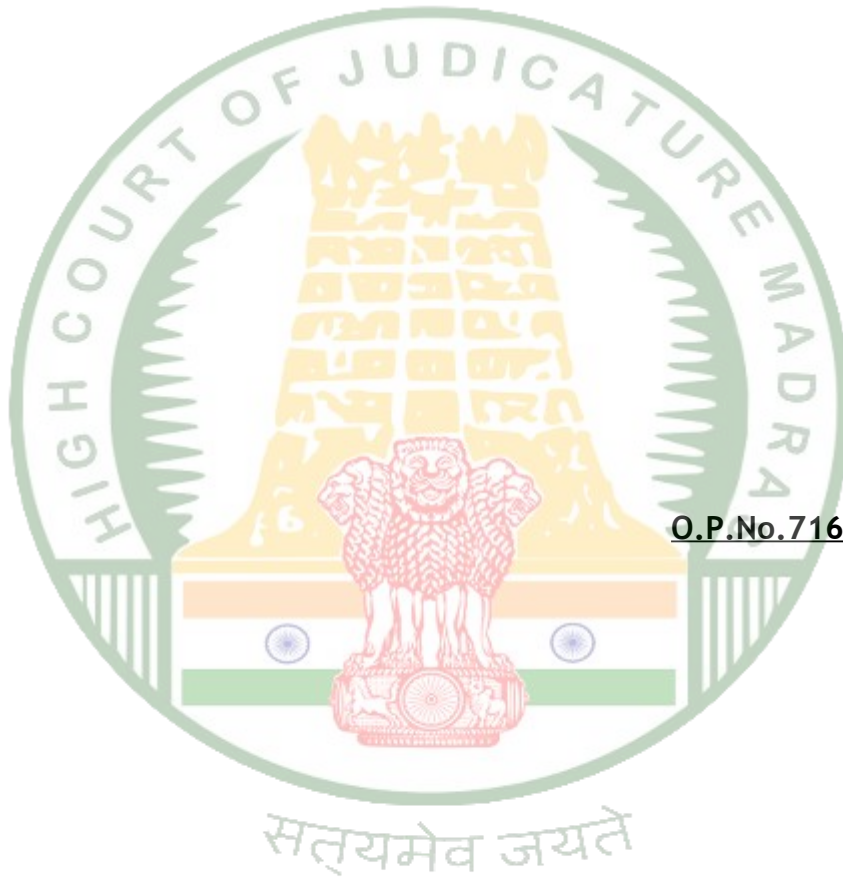
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