

O.P.No.406 of 2020

N.SATHISH KUMAR, J.

This Petition has been filed under Sections 8(2) of the Hindu Minority and Guardianship Act 1956 R/W Section 9 of the Guardians and Wards Act 1890 read with Order 21 Rule 12 of Original Side Rules to grant permission for the petitioner to mortgage the Schedule mentioned property belonging to the petitioner's minor son U.S. Vishal Adithyha, who is aged 13 years, through Mr.Thinathayalan, the paternal Grandfather of U.S.Vishal Adithyha and to grant permission for the petitioner to construct a home and shops belonging to the share of the petitioner's minor son U.S. Vishal Adithyha, who is aged 13 years.

2. The case of the petitioner is that she got married with one Uma Sankar. Due to their wedlock, a male child was born to them. It is further submitted that one Mr.Thinathayal, the paternal grandfather of U.S.Vishal Adithyha, out of his own funds have purchased a vacant land from one R.Neelavathy w/o S.Ramamurthy, ad measuring 1880 sq.ft bearing Plot

No.23B comprised in Survey No.121/10B situated at Ganesh Nagar, Velachery Village, Guindy Taluk, Chennai. It is further submitted that the Thinathayalan, the grandfather of minor U.S.Vishal Adithya and father-in-law of the petitioner put up an asbestos sheet measuring about 150 sq.ft of built up area for living purpose along with EB connection. The said Thinathayalan executed a settlement deed to and in favour of minor U.S.Vishal Adithya for the above said property. It is further submitted that after the demise of the husband and father-in-law, the petitioner and the minor son are living all alone with the meager income. It is further submitted that upon receiving the planning permit from the Chennai Corporation, the petitioner again approached the bank for loan to construct a home and shops in the interest and welfare of the minor. However, the bank stated that since the property is in the name of the minor, the petitioner would have to obtain permission from the Court.

3. On the side of the petitioner, the petitioner examined herself as P.W.1 and marked Ex.P.1 to Ex.P.13.

4. P.W.1 in her evidence has stated that she is the petitioner herein. She has filed her proof affidavit stating the facts of this case and the same may be treated as part and parcel of her examination in chief. In continuation of her proof affidavit, the following documents were marked as exhibits on her side.

5. Ex.P.1 is the birth certificate of Vishal Adithyha, who was born on 13.09.2007. Ex.P.2 is the photocopy of the Sale Deed dated 12.09.1996 executed in favour of M.K.Thinathayalan. Ex.P.3 is the photocopy of the Settlement Deed dated 25.04.2012 executed by Thinathayalan in favour of minor U.S.Vishal Adithyha. Ex.P.4 is the death certificate of T.Uma sankar, who died on 22.08.2015. Ex.P.5 is the Legal Heirship certificate dated 27.01.2016 in respect of T.Umasankar. Ex.P.6 is the death certificate of K.Thinathayalan, who died on 17.09.2016. Ex.P.7 (series) are the computer generated copies of the building plan approval along with fees paid receipts. Ex.P.12 is the photocopy of the Sale Deed dated 07.09.2011 executed in favour of deceased T.Umasankar.

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5. Having regard to the fact that the minor's property in present condition is not fetching any income, only in order to augment the income from the minor's property, development of property is required. Taking note of the fact that the interest of the minor will be protected by developing the property. I am of the opinion that the petitioner is entitled for the reliefs as sought for in the petition.

6. Accordingly, this petition is ordered, the petitioner is permitted to mortgage the share of the minor U.S.Vishal Adithyha in the Schedule mentioned property and to utilise the funds for the construction of the building.

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16.12.2020

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