OP No.946 of 2019

SENTHILKUMAR RAMAMOORTHY, J

This petition has been filed to appoint the petitioner as the legal guardian of the person and property of his minor son namely K.Mohammed Ibrahim and to permit the petitioner to sell the property described in the schedule to the petition including the minor's share in the said property and for investment of the minor's share in the said property in a fixed deposit account in a nationalised bank till he attains the age of majority.

2. I heard the learned counsel for the petitioner. The learned counsel for the petitioner submitted that the petitioner was married to T.Fowjiya Kani and that they had four sons. The petitioner's wife, T.Fowjiya Kani, died intestate on 02.02.2014. She had purchased the suit schedule property and upon her death, the petitioner and his four sons became joint owners of the said property. The learned counsel for the petitioner further submitted that the other three sons of the petitioner have already attained the age of majority, whereas the youngest son, namely, K.Mohammed Ibrahim, is currently 15 years old, since he was born on 21.07.2005.

3. The learned counsel for the petitioner also submitted that evidence

was adduced in support of the petition by examining the petitioner as PW1. During the examination in chief of PW1, 10 documents were exhibited as Exs.P1 to P10. The learned counsel specifically invited the attention of this Court to the Birth Certificate of the petitioner's minor son, K.Mohammed Ibrahim, which was marked as Ex.P1 and the Legal Heirship Certificate in respect of the petitioner's deceased wife, T.Fowjiya Kani, which was marked as Ex.P4. He also pointed out that the petitioner had entered into a Joint Venture Agreement and executed a General Power of Attorney on 02.11.2016, pursuant to Agreement of Sale dated 26.04.2019. Therefore, the learned counsel submitted that it is necessary to obtain the permission of this Court so as to sell the minor's share in the property described in the schedule to the petition.

4. I considered the submissions of the learned counsel for the petitioner and examined the evidence on record in this case. On perusal of Ex.P1, it is clear that the youngest son of the petitioner is aged about 15 years as he was born on 21.07.2005. The Legal Heirship Certificate dated 28.02.2014, in respect of Mrs. T.Fowjiya Kani, which was marked as Ex.P4 reflects the name of the petitioner and his four sons including the minor son K.Mohamed Ibrahim. The Death Certificate of Mrs.Fowjiya Kani has been marked as Ex.P3 and this document shows that she died on 02.02.2014. The petitioner has also provided a Declaration of Willingness to be the guardian of

the person and property of the minor and this document was marked as Ex.P10. The documents related to the property described in the schedule to the petition have also been marked as Exs.P5 to P7.

5. On the basis of the above evidence, I find that the petitioner has made out a case to allow this petition. As regards the minor's share in the property, needless to say, the same should be deposited in a fixed deposit account so as to protect the interest of the minor.

6. Therefore, this petition is allowed by issuing the following directions:

(i) The petitioner is appointed as the legal guardian of the person and property of his minor son K.Mohamed Ibrahim.

(ii)The petitioner is permitted to sell the property described in the schedule to the petition including the share of his minor son K.Mohamed Ibrahim.

(iii)The minor's share in the sale proceeds, namely a sum of Rs.1,68,840/- shall be invested in a fixed deposit account in a nationalised bank for a period of 3 ½ years.

(iv)The petitioner shall be entitled to receive interest on such Fixed Deposit on a quarterly basis.

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(v)The minor son is granted leave to apply to this Court to obtain appropriate orders once he attains the age of majority.

05.02.2020

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