



OP No.608 of 2021

O.P. No.608 of 2021

WEB CO **ABDUL QUDDHOSE, J.**

This petition has been filed under Section 8(2)(a) of the Hindu Minority and Guardianship Act, 1956 seeking permission to sell the share of Minors viz., A.P. Akshaya Sri and A.P.Prithwin Sanjay, who are owning 83.31 sq. ft. (41.655 sq. ft. each) of undivided share of land out of their 2/9th share (1/9th share each) from and out of 693.83 sq. ft. undivided share of land, in the total extent of 83260 sq. ft., morefully described in Sl. No.I to the petition schedule, hereinafter referred to as the “schedule property”.

2. Originally, MIG Flat No.1(A1) in the Ground Floor of the Building in Block No.A, MIG-120, 11th Avenue, Ashok Nagar, Chennai – 600 083 measuring an extent of 540 sq. ft. together with 1/120th (693.83 sq. ft.) undivided share of land out of the total extent of 83260 sq. ft. comprising Old T.S. No.14 as per Patta, New T.S. No.14/7, Block No.71 of Kodambakkam Village was originally owned by S.Ananthasayanam who died intestate on 03.07.2020 leaving behind his wife, M.S. Leela, his son A. Balajee, wife and children of his pre-deceased son Late A. Aswin, who died intestate on 22.03.2014 leaving behind his wife viz., M.P.



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Priyadharma Chindu, the petitioner herein and his children namely the Minors A.P. Akshaya Sri and Master A.P. Prithwin Sanjay as the only Legal Heirs to succeed his estate. The petitioner is working in a private concern. S.Ananthasayanam was one of the owners of the Flat mentioned supra in the Apartment complex developed by the Tamil Nadu Housing Board. The respective owners of the Flats in the Apartment complex developed by the Tamil Nadu Housing Board at MIG -120, 11th Avenue, Ashok Nagar, Chennai – 600 083 measuring a land to an extent of 83260 sq. ft. have entered into a Joint Development Agreement dated 28.09.2020 with M/s. Baashyaam Constructions Pvt. Ltd.

3. Under the said Agreement, the Builder has agreed to construct a Flat for the owners of the Flats after demolishing the existing Apartment complex. After the death of S.Ananthasayanam, the petitioner, who is his daughter-in-law / Wife of his pre-deceased son A.Aswin and the grand children of the deceased S. Ananthasayanam / Children of Late A.Aswin viz., Miss A.P.Akshaya Sri and Master A.P. Prithwin Sanjay jointly became the absolute owners having 2/9th share (1/9th share each), which is more fully described in Sl. No.II in the petition schedule. Since the Minor daughter A.P.Akshaya Sri and Minor son A.P. Prithwin Sanjay of



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the petitioner are aged 12 years and 10 years respectively, she has filed this petition seeking for permission to sell the share of her Minor children. The share of the Minors A.P. Akshaya Sri and Master A.P. Prithwin Sanjay are mentioned in Sl. No.I to the petition schedule. Under the Joint Development Agreement all the Flat owners, who have agreed for Joint Development with M/s.Baashyaam Constructions Private Limited have permitted the Builder to mortgage the respective shares for the purpose of availing financial facilities for the construction project.

4. In paragraph No.5 of the petition, the petitioner has stated that the mortgage or sale of the Minors share of 83.31 sq. ft. (41.655 sq. ft. each) of undivided land are only in their interest and to generate income for the Minors and use the same towards Minors education and well being.

5. The petitioner who is the mother of Minors was examined as a witness, as PW1 before the learned Master,

6. Before the learned Master the following documents are marked as as Exhibits :

<i>Exhibits</i>	<i>Nature of the documents</i>
P1	Photocopy of Sale Deed executed by the Tamil Nadu Housing Board in favour of



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<i>Exhibits</i>	<i>Nature of the documents</i>
	S.Ananthasayanam, registered as Document No.531 of 1989 on the file of S.R.O., Kodamabakkam, dated 15.02.1989.
P2	Photocopy of Death Certificate of Aswin, dated 03.04.2014.
P3	Photocopy of Legal Heirship Certificate of Aswin, dated 31.07.2014.
P4	Photocopy of Death Certificate of S.Ananthasayanam, dated 14.07.2020
P5	Photocopy of Legal Heirship certificate of S.Ananthasayanam, dated 05.08.2020
P6	Photocopy of Power of Attorney executed by A. Balajee in favour of M.S. Leela dated 24.09.2020
P7	Photocopy of Power of Attorney executed by A. Balajee in favour of M/s. Baashyaam Constructions Pvt. Ltd., dated 24.09.2020.
P8	Photocopy of Power of Attorney executed by M.P. Priyadharma Chindu in favour of M/s. Baashyaam Constructions Pvt. Ltd., dated 28.09.2020.
P9	Photocopy of Power of Attorney executed by Master A.P.Prithwin Sanjay in favour of M/s.Baashyaam Constructions Pvt. Ltd., dated 28.09.2020.
P10	Photocopy of Power of Attorney executed by Miss. A.P. Akshaya Sri in favour of M/s.Baashyaam Constructions Pvt. Ltd., dated 28.09.2020.
P11	Photocopy of Power of Attorney executed by Leela in favour of M/s.Baashyaam Constructions Pvt. Ltd., dated 28.09.2020.
P12	Photocopy of Joint Development Agreement



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<i>Exhibits</i>	<i>Nature of the documents</i>
	executed by M.S. Leela, A. Balajee, M.P. Priyadharma Chindu, A.P.Askhaya Sri and Master A.P. Prithwin Sanjay in favour of M/s.Baashyaam Constructions Pvt. Ltd., dated 28.09.2020.
P13	Scan Copy of Birth Certificate of Miss A.P. Akshaya Sri dated 25.12.2009
P14	Original Birth Certificate of Master A.P.Prithwin Sanjay dated 19.12.2011.

7. The petitioner has also filed a proof affidavit before the learned Master reiterating the contents of the petition filed in support of O.P. No.608 of 2021.

8. As seen from the evidence available on record after the death of S.Ananthasayanam, who was the original owner of the Flat referred to supra, the petitioner who is his daughter-in-law/ wife of his pre-deceased son Late A. Aswin, and his grand children viz., A.P. Akshaya Sri and Master A.P. Prithwin Sanjay and children of Late A. Aswin, became the absolute owners of the same(1/9th share each). The sale deed under which S.Ananthasayanam purchased the property has also been marked as Ex.P1 before the learned Master.

9. The original Death Certificate dated 14.07.2020 for S.Ananthasayanam which has been marked as Ex.P4 also confirms that



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he died on 03.07.2020.

WEB COPY 10. The Legal Heirship Certificate of S.Ananthasayanam, dated 31.07.2014 which has been marked as Ex.P5 also confirms that the petitioner's husband Late S. Aswin is his pre-deceased son.

11. The Joint Development Agreement entered into between the petitioner and her Minor children along with other Legal Heirs of S.Ananthasayanam with M/s.Baashyaam Constructions on 28.09.2020 which has been marked as Ex.P12 also reveals that they have agreed to mortgage their share to enable the Promoter to avail loan facilities from financial institutions. They have also permitted M/s.Baashyaam Constructions to sell their respective shares on their behalf.

12. Power of Attorneys have also been given by the petitioners and other Legal Heirs of S. Ananthasayanam appointing M/s. Baashyaam Constructions Private Limited as their power Agent which have been marked as Exs.P6, P7, P10 & P11 before the learned Master. A separate Power of Attorney has also been given by the petitioner acting on behalf of the Minors A.P. Akshaya Sri and A.P. Prithwin Sanjay in favour of M/s.Baashyaam Constructions for the sale / mortgage of the Minors share, which have been marked as Exs.P8 and Ex.P9.



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WEB COPY 13. The Birth Certificates of Minors A.P. Akshaya Sri and A.P.

Prithwin Sanjay for whom permission is sought for in this petition has also been filed and marked as Exs.P13-P14. The petitioner through her lawyer has given a public notice in the issue of “New Indian Express” dated on 26.10.2021, English Daily informing the general public about the sale of her Minor Children share.

14. Similarly, another advertisement has also been given in Tamil Daily viz., “Dina Malar” in its issue dated 26.10.2021. No objections have also been received from the general public with regard to the said public notice given by the petitioner.

15. The learned counsel for the petitioner has also submitted before this Court that after filing of this petition, the building complex has been demolished and presently it is only a vacant land and hence, the relief sought for in so far as the Sl. No.II in the schedule which pertains to the building has now become redundant.

16. After perusing and examining the evidence available on record, this Court is of the considered view that the prayer sought for in OP



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No.608 of 2021 has to be granted as the property of the Minors Miss

A.P. Akshaya Sri and Master A.P. Prithwin Sanjay are being sold /mortgaged only in his interest as the property sold or mortgaged will benefit their educational and other expenses. This Court is therefore satisfied with the reasons given by the petitioner for the sale / mortgage of the Minors share of 83.31 sq.ft. (41.655 sq. ft. each) of undivided share of land out of their $2/9^{\text{th}}$ share ($1/9^{\text{th}}$ share each) from and out of 693.83 sq. ft. undivided share of land, in the total extent of 83260 sq. ft.,

17. In the result, OP No.608 of 2021 is allowed as prayed for and permission is granted by this Court to sell / mortgage the shares of Minors Miss A.P. Akshaya Sri and Master A.P. Prithwin Sanjay, morefully described in Sl. No.I to the schedule filed along with the petition in OP No.608 of 2021. In case, the property of the Minors Miss A.P. Akshaya Sri and Master A.P. Prithwin Sanjay are being sold by M/s.Baashyaam Constructions or by the petitioner, the sale proceeds shall be deposited in the form of Fixed Deposit favouring the Registrar General of this Court in any National Bank to the credit of OP No.608 of 2021 for a period of three years at the first instance. Thereafter, the deposit may be renewed periodically for a further period of three years till the



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application has been filed separately for payment out by Miss A.P.

Akshaya Sri and Master A.P. Prithwin Sanjay on attaining majority.

26.11.2021

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ABDUL QUDDHOSE, J.



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