



OP No.607 of 2021

O.P. No.607 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 Minor S.Mithul, who is owning 124.966 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.8 in the First floor of the Building in Block No.I, MIG-120, 11th Avenue, Ashok Nagar, Chennai – 600 083 measuring an extent of 920 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.P. Saravanan who died intestate on 10.01.2020 leaving behind his wife, P.Senthilselvi, the petitioner herein and the mother of the Minor S. Mithul(Son) and Dharsana, his daughter as the only Legal Heirs to succeed his estate. S.P. Saravanan was one of the owners of the Flat mentioned supra in the Apartment complex developed by the Tamil Nadu Housing Board. The



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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 total an extent of 83260 sq. ft. have entered into a Joint Development Agreement dated 24.09.2020 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.P. Saravanan, the petitioner, who is his wife and his children S.Dharsana and Master S. Mithul became the absolute owners of the Flat which is more fully described in Sl. No.II in the petition schedule. The daughter of the petitioner has already become a Major and since her son Master S.Mithul is aged 15 years and is a Minor, she has filed this petition seeking for permission to sell the Minor son's share. The share of the Minor son Master S.Mithul is 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 have permitted the Builder to mortgage their respective shares for the purpose of availing financial facilities for the construction project.



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4. In paragraph No.5 of the petition, the petitioner has stated that the mortgage or sale of the Minor's share of 124.9666 sq. ft. of undivided land is only in his interest and to generate income for the Minor and use the same towards Minor's education and well being.

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

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

<i>Exhibits</i>	<i>Nature of the documents</i>
P1	Photocopy of the Sale Deed executed by the Tamil Nadu Housing Board in favour of R.Anandaiah, registered as document No.1171/1994 on the file of S.R.O., Kodambakkam dated 15.03.1994.
P2	Photocopy of the Sale Deed executed by R.Anandaiah in favour of N.M.Kumar alias N.Muthu Kumar Rajan, registered as Document No.2760/1996 on the file of S.R.O., Kodambakkam dated 24.05.1996
P3	Photocopy of the Sale Deed executed by N.Muthu Kumar Rajan in favour of D. Mohana Krishnan, registered as Document No.1613/1998 on the file of S.R.O., Ashok Nagar, dated 15.09.1998.
P4	Photocopy of the Sale Deed executed by D.Mohana Krishnan, in favour of



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<i>Exhibits</i>	<i>Nature of the documents</i>
	B.T.Rangarajan, registered as Document No.1060 of 2005 on the file of S.R.O., Ashok Nagar dated 20.04.2005
P5	Photocopy of the Sale Deed executed by B.T.Rangarajan in favour of S.P. Saravanan, Registered as Document No.1559 of 2008 on the file of S.R.O., Ashok Nagar, dated 25.06.2008.
P6	Original Death Certificate of Late S.P.Saravanan, dated 22.01.2020.
P7	Photocopy of the Legal Heirship Certificate of S.P.Saravanan dated 21.02.2020.
P8	Photocopy of the Joint Development Agreement dated 24.09.2020
P9	Photocopy of the Power of Attorney Deed executed by P.Senthilselvi and S. Dharsana appointing M/s.Baashyaam Constructions Pvt. Ltd. As their Power Agent, registered as Document No.2279 of 2020 on the file of S.R.O., Ashok Nagar dated 14.10.2020.
P10	Photocopy of the Power of Attorney Deed executed by the petitioner herein on behalf of Minor S. Mithul appointing M/s.Baashyaam Constructions Pvt. Ltd., as the power Agent, registered as Document No.2280 of 2020 on the file of S.R.O., Ashok Nagar, dated 14.10.2020.
P11	Original Birth Certificate of Minor S. Mithul, dated 20.02.2021.

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.



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8. As seen from the evidence available on record after the death of S.P.Saravanan, who was the original owner of the Flat referred to supra, the petitioner who is his wife and his children S.Dharsana and Master S. Mithul became the absolute owners of the same. The sale deed under which S.P. Saravanan purchased the property has also been marked as Ex.P5 before the learned Master. The original Death Certificate dated 22.01.2020 for S.P.Saravanan which has been marked as Ex.P6 also confirms that he died on 10.01.2020.

9. The Legal Heirship Certificate of S.P.Saravanan, dated 21.02.2020 which has been marked as Ex.P7 also confirms that the petitioner and his two children viz., S. Dharsana and Master S. Mithul are his only Legal Heirs.

10. The Joint Development Agreement entered into between the petitioner and her children with M/s.Baashyaam Constructions on 24.09.2020 which has been marked as Ex.P8 also reveals that the petitioner and her children have agreed to mortgage their share to enable the Promoter to avail loan facilities from financial institutions. They have also permitted to sell their respective shares on their behalf.



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11. A Power of Attorney has also been given by the petitioner and her daughter S. Dharsana appointing M/s. Baashyaam Constructions Private Limited as their power Agent which has been marked as Ex.P9 before the learned Master. A separate Power of Attorney has also been given by the petitioner acting on behalf of the Minor S. Mithul in favour of M/s.Baashyaam Constructions for the sale / mortgage of the Minor's share.

12. The original Birth Certificate of Minor S. Mithul for whom permission is sought for in this petition has also been filed and marked as Ex.P11 which confirms the date of birth of Minor S. Mithul as 27.07.2006. 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 Minor S. Mithul's share.

13. Similarly, another advertisement has also been given in Tamil Daily viz., “Thina 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.

14. The learned counsel for the petitioner has also submitted



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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.

15. After perusing and examining the evidence available on record, this Court is of the considered view that the prayer sought for in OP No.607 of 2021 has to be granted as the property of the Minor S.Mithul is being sold /mortgaged only in his interest as the property sold or mortgaged will benefit his educational and other expenses. The sale of the minor share will also be useful to the petitioner who is a Home-Maker to support the financial needs of the Minor S. Mithul. This Court is therefore satisfied with the reasons given by the petitioner for the sale / mortgage of the Minor share of 124.966 sq. ft. out of 693.83 sq. ft undivided share in the land measuring a total extent of 83260 sq. ft.

16. In the result, OP No.607 of 2021 is allowed as prayed for and permission is granted by this Court to sell / mortgage the share of Minor S. Mithul, morefully described in Sl. No.I to the schedule filed along with the petition in OP No.607 of 2021. In case, the property of the Minor S. Mithul is being sold by M/s.Baashyaam Constructions or by the



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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.607 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 application has been filed for payment out by the Minor S. Mithul on attaining majority.

26.11.2021

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ABDUL QUDDHOSE, J.



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