

O.P.No.303 of 2021**V.PARTHIBAN, J.**

This Petition has been filed under Sections 3 and 7 to 10 and 29 of the Guardians and Wards Act, 1980 read with Order XXI Rule 2 and 3 of Original Side Rules, seeking appointment of the petitioner (i.e.) Syeda Athika Parveen as the Guardian of the person and property of minor Syed Zaheer Shah and to permit the petitioner herein as Guardian to sell and deal with the undivided 7/12 shares i.e., 1114 sq.ft. of the minor Syed Zaheer Shah in the schedule mentioned property.

2. The case of the petitioner is that the property situated at Plot No.369, 30th Street, 6th Sector, K.K.Nagar, Chennai-78 measuring an extent of 2388 Sq.ft comprised in Survey No.284 of Virugambakkam Village was originally belonged to one S.D.Pasha. The said S.D.Pasha, during his lifetime has executed a settlement deed in favour of Mr.Syed Muthiullah Shah and Mrs.Syeda Tahira Ahamed. The son of S.D.Pasha viz., Mr.Syed Muthiullah Shah died intestate on 13.02.2017 leaving behind his wife, daughter and son as his legal heirs. According to the petitioner, the property of the deceased has to be divided as 1/8 share for wife, 7/12 shares for son

and 7/24 shares for daughter. The petitioner state that she is independently raising her minor son. She is presently unemployed and does not have the monetary resources to develop the said property and gain income from it. Therefore, she decided to enter into a joint venture agreement with a builder viz., M/s.Salma Constructions Pvt.Ltd to develop and derive income for the welfare of the minor. For selling the minor's share in the said property, the petitioner is required to obtain permission from this Court. Hence, the petitioner is before this Court with the above prayer.

3.The petitioner, who examined herself as P.W.1, reiterated the averments made in the petition and marked Ex.P.1 to P.9.

4. P.W.1 in her evidence has stated that the minor Syed Zaheer Shah was born to the petitioner and her husband Mr.Syed Muthiullah Shah on 14.09.2006. Ex.P1 is the computer generated birth certificate of Syed Zaheer Shah, who was born on 14.09.2006. Ex.P2 is the photocopy of the Settlement Deed dated 30.09.2016 executed in favour of Syed Muthiullah Shah. Ex.P3 is the computer generated death certificate of Syed Muthiullah Shah, who died on 13.02.2017. Ex.P4 is the photocopy of the Legal

Heirship certificate dated 20.03.2017 in respect of Syed Muthiullah Shah. Ex.P5 is the photocopy of the Joint Venture Agreement dated 25.03.2019. Ex.P6 is the photocopy of the Supplementary Agreement dated 17.12.2020. Ex.P7 is the photocopy of the Building permission dated 16.12.2020. Ex.P8 is the computer generated Planning permission dated 16.12.2020. Ex.P9 is her declaration of willingness.

5. Considering the averments made in the petition and on perusing the materials available on record, this Court is of the opinion that the petitioner is entitled for the relief as sought in the petition.

6. Accordingly, this petition is ordered, the petitioner is appointed as the Guardian of the person and property of the minor Syed Zaheer Shah. The petitioner is also permitted to sell the share of the minor Syed Zaheer Shah over the schedule mentioned property and the share of the minor shall be deposited in fixed deposit in any of the nationalized bank till the minor attains majority. The petitioner shall produce a copy of the deposit receipt within one month from the date of the execution of the sale deed in favour of the purchaser and the petitioner shall receive the accrued interest from

the deposit for the purpose of the education of the minor Syed Zaheer Shah.

The petitioner shall execute a Guardian Bond for a sum of Rs.25,000/- in favour of Assistant Registrar O.S.(II), High Court, Madras.

13.09.2021

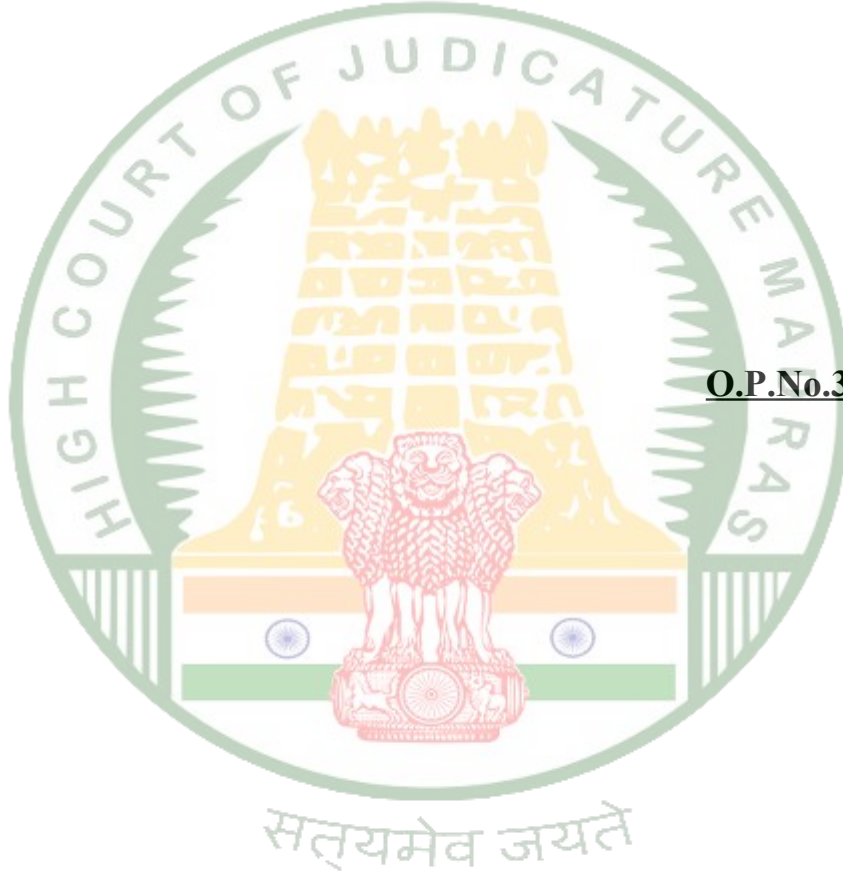
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