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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 18th DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

O.P. No.341 of 2021

In the matter of Minor M.S.Srikanth
Sabarish and M.S.Srinath (Male)
Date of Birth: 20/02/2015.

1.Mrs.Sridevi,
W/o Late M.R.Sathyanarayanan,
residing at No.6, Vinayagar Kovil Street,
Anandha Nagar, Tambaram Sanatorium,
Chennai – 600 047.

2.Mr.M.R.Bakthavachalam,

3.Mrs.R.Amsa,
Both residing at 4/1, S1 Preethi Classic,
Periyazhvar Street, Tambaram East,
Chennai – 600 059.

... Petitioners

Versus

Nil

... Respondent

Original Petition praying that this Hon'ble Court be pleased to
1.to grant permission to the petitioners to sell the schedule mentioned
property to Mr.P.Vinayagamurthy or his nominees for the sale consideration
of Rs.18,25,000/-



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2.To deposit the 1/4th share of both the minors in a Nationalized Bank.

This Original Petition coming on this day before this court for hearing in the presence of Mr.G.Surya Narayanan, Advocate for the petitioners herein and upon reading the petition filed herein and the other exhibits therein referred to and upon perusing the evidence adduced therein and, it is ordered as follows:-

That 1) Mrs.Sridevi, 2) M.R.Bakthavachalam, and 3) R.Amsa, the petitioners herein be and are hereby permitted to sell the property morefully setout in the schedule hereunder to Mr.P.Vinayagamurthy or his nominees for the sale consideration of Rs.18,25,000/- (Rupees Eighteen Lakhs Twenty Five Thousand only).

2. That the petitioners herein be and are hereby directed to deposit ¼ share of both the minors in a nationalised bank till they attain majority.

3. That the petitioners herein be and are hereby permitted to withdraw the interest amount periodically that accumulates over the deposited amount for the maintenance and educational expenses of minor children (i.e.) M.S.Srinath and M.S.Srikanth Sabarish.



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SCHEDULE OF PROPERTY AS PER FORM NO.27

S. No.	Description of property	Approximate value	Person in possession of the property
1.	All that piece and parcel of vacant house site property bearing Plot No.2, Manikandan Nagar Layout, comprised in Survey No.63/1, situated at No.101, Hastinapuram Village, Tambaram Taluk, Kancheepuram District, measuring 1003 Sq.Ft. as vacant site Bounded on the North by : 10 feet common passage South by : Plot No.3 of Manikandan Nagar East by : Plot No.2.B of Manikandan Nagar; West by: 30 feet Road	Rs.18,25,000/- Minor's share 1/4 th each	1. Mrs.Sridevi 2. M.S.Srinath 3.M.S.Srikanth Sabarish 4.Mrs.Saraswati

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
18th DAY OF AUGUST 2021.

Sd./-

ASSISTANT REGISTRAR (O.S.II)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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the Orders/Judgments/Decrees in this format.



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02.09.2021

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O.P. No.341 of 2021

ORDER:-

DATED: 18.08.2021

THE HON'BLE MR. JUSTICE

V.PARTHIBAN

FOR APPROVAL: 02.09.2021

APPROVED ON : 02.09.2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.08.2021

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

O.P.No.341 of 2021

1. Mrs.Sridevi, W/o Late M.R.Sathyanarayanan

2. Mr.M.R.Bakthavachalam

3. Mrs.R.Amsa

.. Petitioners

Vs.

Nil

.. Respondent

Original Petition filed under Section 8(2) of the Hindu Minority and Guardianship Act, 1956 and Order XXI Rule 5 of the Original Side Rules of this Court read with Clause 17 of the Letters Patent.

Schedule of property as per Form No.27

S. No.	Description of property	Approximate value	Person in possession of the property
1	All that piece and parcel of vacant house site property bearing Plot No.2, Manikandan Nagar Layout, comprised in Survey No.63/1, situated at No.101, Hastinapuram Village, Tambaram Taluk, Kancheepuram District, measuring 1003 Sq.Ft. as vacant site\ Bounded on the: North by : 10 feet common passage South by : Plot No.3 of Manikandan Nagar East by : Plot No.2.B of Manikandan Nagar; West by: 30 feet Road	Rs.18,25,000/- Minor's share 1/4 each	1. Mrs.Sridevi 2. M.S.Srinath 3.M.S.Srikanth Sabarish 4. Mrs.Saraswati



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For petitioner : Mr.G.Surya Narayanan

ORDER

This Original Petition is filed for the following reliefs:

- (i) to grant permission to the petitioners to sell the schedule mentioned property to Mr.P.Vinayagamurthy or his nominees for the sale consideration of Rs18,25,000/-, and
- (ii) to deposit the 1/4 share of both the minors in a Nationalised Bank.

2. In the petition, it is stated as follows:

(a) The first petitioner states that her husband Mr.M.R.Sathyanarayanan, son of M.P.Radhakrishnan, purchased the property at Plot No.2, Manikandan Nagar Layout, comprised in Survey No.63/1, situated at No.101, Hastinapuram Village, Tambaram Taluk, Kancheepuram District, measuring 1003 Sq.Ft. as vacant site, morefully described in the schedule hereunder in Document No.2746/2004, on the file of the SRO, Pallavaram, dated 28.06.2004 from Mr.V.Satyamurthy. The husband of the first petitioner had been in possession and enjoyment from the date of his purchase.

(b) Out of the lawful wed-lock between Mr.M.R.Sathyanarayanan and

the first petitioner, twin male children were born on 20.02.2015, named



Master M.S.Srikanth Sabarish and Master M.S.Srinath. The said M.R.Sathyanarayanan died on 29.06.2017. Since the first petitioner could not manage the two children after the death of her husband, Master M.S.Srikanth Sabarish was given in adoption to the second and third petitioners in O.P.No.683 of 2018 on the file of this Court and this Court, by order dated 19.11.2018, granted the adoption and from which date, the adopted parents had been taking care of the child Master M.S.Srikanth Sabarish.

(c) Under Section 63 of the Juvenile Justice (Care and Protection of Children) Act, 2015, minor Srikanth Sabarish had retained the right of the adopted child in the natural family's property. Class-I legal heirs of Mr.Sathyanarayanan are the mother of the deceased, namely Saraswati, his wife Sridevi, the first petitioner, his son S.Srinath and another son M.S.Srikanth Sabarish who is the adopted child of the second and third petitioners and each are entitled to 1/4 share in the property and the aforesaid persons are the only relations of minor living as on today.

(d) Since the land is of a very small extent and that the petitioners could not use it for any better purpose and that the land is vacant land and there is every threat of occupation by encroachers, the petitioners had decided to sell the property to Mr.Vinayagamurthy, S/o Punyakoti, residing



600 064 and the agreement in original dated 03.03.2021 agreeing to sell for a total consideration of Rs.18,25,000/- and the said person had given an advance amount of Rs.5,00,000/- in the name of the minors. In Cheque No.00017 in the name of M.S.Srinath, Rs.2,50,000/-, dated 03.03.2021, which is deposited in their respective Bank account with Indian Bank, Chitlapakkam Branch, Savings Bank Account No.6576141272 and Cheque No.00018 is in the name of M.S.Srikanth Sabarish, Rs.2,50,000/- dated 03.03.2021, which is deposited in his respective Bank account with Indian Bank, Chitlapakkam Branch and the credit of Rs.2,50,000/- is received. The minors Bank accounts showing their mother Sridevi as nominee and the petitioners herein also undertake to change the name of the nominee for the minor M.S.Srikanth Sabarish bearing Savings Bank Account No.6576141487, as he has been adopted by the second and third petitioners herein.

(e) The petitioners are willing to deposit the value of minors share, namely Rs.2.06,250/- (Rs.4,56,250/- deducting the advance received Rs.2,50,000/-) to each of the minor children in a Nationalised Bank on an interest bearing Fixed Deposit. The affidavit of the purchaser is also filed along with this petition expressing his willingness to purchase at the agreed rate and the petitioners undertake to deposit the minors share in the above



Fixed Deposit in the Original Petition later if so directed.

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(f) The first petitioner is the natural guardian of minor M.S.Srinath and the second and third petitioners are the adopted parents of the minor child M.S.Srikanth Sabarish. The petitioners undertake to scrupulously follow the directions of this Court in respect of the sale of the property and deposit the amounts fall into the share of the minors. Undoubtedly, the amount deposited for the benefit of the minors can be used for their education or for such purpose as may be directed by this Court in this application or at later date at the request of the petitioners or by the children on attaining majority.

(g) There is an encroacher who has occupied the land and the purchaser has said that he can remove the encroachment and take possession and therefore, the cost of the land is reduced from to the extent of cost to be incurred to remove the encroachment. The petitioners are filing the guideline value of the property as well as the Engineer's report for showing the market value of the property. The property is valued properly and the petitioners had not suppressed any fact or material before this Court for the purpose of granting permission to sell share of the minor children in the schedule mentioned property along with the other legal heirs of Mr.M.R.Sathyanarayanan who died on 29.06.2017.

(h) The petitioners have not filed any other petition or proceedings on



the same cause of action and the same is pending or disposed of by any competent Court having jurisdiction over the property and minors.

(i) No guardian of the person or property of the minor has been appointed by the deceased or on an application at any time made to this Court or any other Court with respect to the guardian of the person or property of the minors, except the adoption O.P.No.683 of 2018, dated 19.11.2018 in respect of minor M.S.Srikanth Sabarish.

(j) The first petitioner is the mother and the natural guardian of the minor M.S.Srinath, since the father is deceased and the second and third petitioners are the adopted parents of the minor M.S.Srikanth Sabarish. The deceased has not left any Will and died intestate on 29.06.2017.

(k) The first petitioner is taking good care of the minor child M.S.Srinath and the second and third petitioners being the adopted parents, are taking good care of minor child M.S.Srikanth Sabarish.

(l) The schedule mentioned property is to be sold for its full value and the 1/4 share of the minors will be deposited as may be directed by this Court in a Nationalised Bank as stated above in the Fixed Deposit bearing interest.

Hence, this petition has been filed for the reliefs stated supra.



averments made in the petition and marked the following documents viz.,

Exs.P-1 to P-14. Ex.P-1 is the certified copy of the sale deed dated 28.06.2004 executed in favour of Mr.M.R.Sathyanarayanan. Ex.P-2 is the photocopy of the Aadhar Card of the first petitioner bearing No.5436 6786 6838. Ex.P-3 is the photocopy of the Aadhar Card of the second petitioner bearing No.5704 9605 2859. Ex.P-4 is the photocopy of the Aadhar Card of the third petitioner bearing No.3286 1461 6197. Ex.P-5 is the computer generated Birth Certificate of M.S.Srikanth Sabarish, who was born on 20.02.2015. Ex.P-6 is the computer generated Birth Certificate of M.S.Srinath, who was born on 20.02.2015. Ex.P-7 is the photocopy of the Death Certificate of M.R.Sathyanarayanan, who died on 29.06.2017. Ex.P-8 is the certified copy of the Legal Heirship Certificate, dated 07.09.2017 in respect of the deceased Sathyanarayanan. Ex.P-9 is the photocopy of the order dated 19.11.2018 passed by this Court in O.P.No.683 of 2018. Ex.P-10 is the certified copy of the registered sale agreement, dated 21.06.2021. Ex.P-11 is the online copy of the Statement of Guideline value. Ex.P-12 is the original Valuation Certificate dated 09.03.2021. Ex.P-13 is the photocopy of the Bank Passbook in respect of the Account No.6576141272, maintained by M.S.Srinath, operated by S.Sridevi with Indian Bank, Chitlapakkam Branch. Ex.P-14 is the photocopy of the Bank Passbook in respect of the Account No.6576141487, maintained by M.S.Srikanth



Sabarish, operated by S.Sridevi with Indian Bank, Chitlapakkam Branch.

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4. The intending purchaser of the property mentioned in the petition, was examined as P.W.2 and he marked Ex.P-15 being his affidavit.

5. Considering the averments made in the petition and on perusing the materials available on record, I am of the opinion that the petitioners are entitled to grant the relief as sought for in the petition.

6. In fine, this petition is ordered as prayed for:-

(i) The petitioners are granted permission to sell the schedule mentioned property to Mr.P.Vinayagamurthy or his nominees for the sale consideration of Rs.18,25,000/-.

(ii) The petitioners are directed to deposit 1/4 share of both the minors in a Nationalised Bank till they attain majority.

(iii) The petitioners are granted permission to withdraw the interest amount periodically that accumulates over the deposited amount for the maintenance and educational expenses of minor children named supra.

Sd./-V.P.N.J.
18.08.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

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