

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.10.2021

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

O.P.No.579 of 2021

N.Jayagopalan alias Gobu,
s/o. Late v. Narasimhalu Reddy,
Door No.57, Rajammal Street,
Chetpet, Chennai-600 031. .. Petitioner

Original Petition filed under Section 8(2) of the Hindu Minority and Guardianship Act, 1956 read with Section 9 of the Guardians and Wards Act, 1890 read with Order XXI Rule 2 of the Original Side Rules of this Court.

Schedule of property as per Form No.27

S. No.	Description of property	Approximate value	Person in possession of the property
	<u>SCHEDULE A PROPERTY</u> All that piece and parcel of House, Ground and premises bearing Door No.7-D, then Door No.57, as per Property Tax	Rs.57,00,000/- (Rupees Fifty Seven Lakhs)	Petitioner

S. No.	Description of property	Approximate value	Person in possession of the property
1	Assessment New Door No.89, Old Door No.57, Rajambal Street, Chetpet, Chennai-600 031, measuring an extent of 1769 Sq.Ft. of Land and Building thereon, comprised in O.S.No.660, R.S.No.392/36, Block No.24 of Egmore Village, presently Egmore Taluk, Chennai District and being bounded on the : North by : R.S.No.392/43, South by : R.S.No.392/37, East by : R.S.No.451/3, Rajambal Street West by : R.S.No.392/8		
2	<u>SCHEDULE B PROPERTY</u> [MINOR J. SAMYUKTHA'S SHARE] ½ SHARE IN ALL THAT PIECE AND PARCEL OF THE ABOVE SCHEDULE A MENTIONED PROPERTY	Rs.28,50,000/- (Rupees Twenty Eight Lakhs Fifty Thousand)	Petitioner

For petitioner : M/s.Sarvabhauman Associates
Mr.K.Venkatasubban

ORDER

This Original Petition is filed for the following reliefs:

(i) to grant permission to the petitioner to sell and register the petition Schedule B mentioned property belonging to the share of the petitioner's minor daughter Miss.J.Samyuktha, who is aged 17 years in favour of the prospective purchaser, namely Tajunnisa.

(ii) to pass such further orders as this Court may deem fit and proper in the circumstances of the case.

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

2.1. The Petitioner submit that the property bearing Door No.7-D, then

Door No.57, as per property Tax Assessment New Door No.81, Old Door No.57, Rajambal Street, Chetpet, Chennai - 600 031 (morefully described in the "A" Schedule of Property) originally belong to one R. Venkatesalu Reddy. The Petitioner submit that the said R. Venkatesalu Reddy executed a Settlement deed dated 22.01.1970 registered as Doc.No.110 of 1970 on the file of Sub Registrar, West Madras in and by which Venkatesalu Reddy and

N. Jayagopalan the Petitioner herein were given life interest and the absolute right vest with son of N. Jayagopalan the Petitioner herein and if he has no sons his daughters shall take it absolutely.

2.2. The Petitioner submit that the said R. Venkatesalu Reddy died on 01.07.1977. The Petitioner submit that the Petitioner got married to one J.Bharathi on 07.03.1990 as per Hindu customs and rights and out of the said wedlock two children were born. The elder daughter namely J. Divya was born on 04.11.1994 and the younger daughter namely J. Samyuktha was born on 22.03.2004. The Petitioner submit that as per the Settlement deed dated 22.01.1970 the property absolutely devolved upon the daughters of the Petitioner herein namely J. Divya and Minor J. Samyuktha each entitled to 1/2 share in the A Schedule Property as the Petitioner N. Jayagopalan had no sons. The Petitioner herein had obtained permission for demolition and reconstruction from the Corporation of Chennai and had constructed a building in the suit "A" Schedule Property and they were in possession and enjoyment of the same.

2.3. The Petitioner submit that the Petitioner herein had relinquished his life interest over the suit "A" Schedule property in favour of his daughters J. Divya and Minor J. Samyuktha vide Release deed dated 01.04.2021 registered as Doc.No.869 of 2021 on the file of the Sub Registrar, Periamet.

2.4. The Petitioner submits that his elder daughter namely J. Divya got married to one Mohan and residing with him at Sriperumbudur. The younger daughter namely J. Samyuktha is a minor and she is undergoing her XII Standard in St. Mary's Higher Secondary School, Sriperumbudur, Kancheepuram District for which the Petitioner is incurring huge expenses. For the higher education expenses of the minor daughter namely J. Samyuktha, the Petitioner is in search of mobilizing huge funds. It is out of place here to mention that the Petitioner is taking care of his father who is aged about 61 years and the Petitioner is only taking care of his medical and other expenses. The Petitioner submits that he is the only breadwinner for the entire family and the family is being maintained only out of his income.

2.5. The Petitioner submit that for the welfare of his minor daughter Miss.J. Samyuktha, who is aged about 17 years, for her education and also for her better life in future, the Petitioner requires funds and has therefore thought it fit to sell the petition Schedule A mentioned property whereby income can be generated for his minor daughter Miss.J. Samyuktha, who is aged about 17 years.

2.6. The Petitioner has already identified a prospective buyer namely Tajunnisa who is residing at No.19/1, Ranganathapuram Street, Chetpet, Chennai - 600 031 for purchasing the entire petition Schedule A mentioned property and has entered into an Agreement for Sale dated 03.05.2021. The Petitioner further submits that the above said prospective purchaser namely Tajunnisa entered into the said Agreement for Sale dated 03.05.2021, however subject to a condition that Mr. N.Jayagopalan, the Petitioner herein shall obtain necessary permission from this Hon'ble Court by filing this present petition to deal with Miss.J. Samyuktha's share, who is a minor aged about 17 years. The share of minor daughter Miss.J. Samyuktha, who is aged about 17 years, from and out of the petition Schedule A mentioned

property is 1/2 share and the same is more fully and particularly described in petition Schedule B mentioned hereunder.

2.7. The Petitioner further submits that the Petitioner is the Natural Guardian for the minor daughter Miss.J. Samyuktha, who is aged about 17 years, and has powers to do all acts which are necessary or reasonable or proper for the benefit of minor daughter Miss.J. Samyuktha, who is aged 17 years. However, as a Natural Guardian, for exercising the right has to necessarily obtain permission from this Hon'ble Court to dispose of the petition Schedule B mentioned property. Hence, the Petitioner is filing the present petition before this Hon'ble Court for necessary orders for sale of the petition Schedule B mentioned property.

2.8. The Petitioner further submits that no other petition has been filed in any other Court seeking permission for the sale of petition Schedule B mentioned property belonging to minor daughter of the Petitioner Miss.J. Samyuktha, who is aged about 17 years.

2.9. The Petitioner further submits that in the event of permission being granted by this Hon'ble Court, the Petitioner would abide and undertake to comply with any condition or orders that may be imposed or passed by this Hon'ble Court in so far as it relates to the Petitioner's minor daughter Miss. J. Samyuktha's share, who is aged about 17 years, described in petition Schedule B mentioned hereunder.

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

3. The petitioner, who examined himself as PW1, reiterated the averments made in the petition and marked Exs.P1 to P6.

3.1. Ex.P1 is the certified copy of the "Life Interest Release Deed" dated 01.04.2021 executed by Mr.N.Jayagopalan @ Goby in favour of J.Divya and others (Original is not produced. Counsel for the petitioner insisted for marking of the photocopy of this document. Admissibility and evidentiary value of this document will be decided later).

3.2. Ex.P2 is the original death certificate of R.Venkatesalu Reddy, who died on 01.07.1977.

3.3. Ex.P3 is the original birth certificate of J.Samyuktha, who was born on 22.03.2004.

3.4. Ex.P4 is the certified copy of the Settlement Deed dated 22.01.1970 executed by R.Venkatesalu Reddy (Original is not produced. Counsel for the petitioners insisted for marking of the photocopy of this document. Admissibility and evidentiary value of this document will be decided later).

3.5. Ex.P5 is the original Sale Agreement dated 03.05.2021 entered into between Mrs.J.Vidya and one another and Mrs.Tajunnisa.

3.6. Ex.P6 is the photocopy of my Aadhaar Card bearing No.2435 2400 1134 (Marked after comparing and verifying with the original).

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

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

(i) The petitioner is granted permission to sell and register the petition Schedule B mentioned property belonging to the share of the petitioner's minor daughter Miss.J.Samyuktha, who is aged 17 years in favour of the prospective purchaser, namely Tajunnisa.

(ii) The petitioner is directed to deposit the share of the minor in a Nationalised Bank till she attain majority.

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

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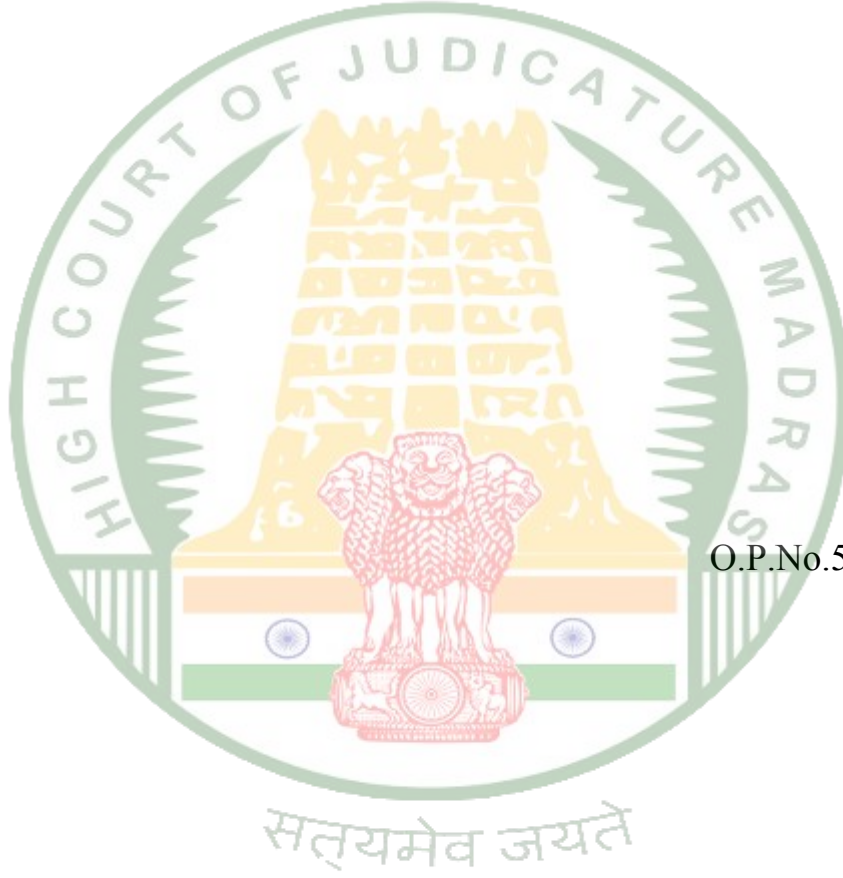
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