



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 15TH DAY OF NOVEMBER 2021

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

O.P.No. 563 of 2021

In the matter of Hindu Minority and
Guardianship Act, 1956

And

In the matter of Minor Child S.Siva
Ganesh S/o. P.Saravanan minor aged
about 3 years

Mrs. J. Abirami,
W/o. P.Saravanan (Late),
No.32/13, Govindaraj Street,
Puliyurpuram,
Kodambakkam,
Chennai – 600 024.

... Petitioner

Original Petition praying that this Hon'ble Court be pleased to

1. Permit the Petitioner to sell the schedule mentioned property on
behalf of the minor namely S.Siva Ganesh.

2. Permit the Petitioner to deposit the minor's share remaining amount
of the sale proceeds i.e. Rs.1,26,251/- (Rupees One Lakh Twenty Six
Thousand Two Hundred Fifty One only) into a nationalized bank for and on
behalf of minor namely S. Siva Ganesh and the Petitioner as a mother and
natural guardian to receive the interest from the deposit for the uplift and
livelihood of the minor.



This Original Petition coming on this day before this court for hearing in the presence of M/s.Shaikh Mehrunisa, Advocate for the petitioner herein and upon reading the petition filed herein and the other exhibits therein referred to and upon perusing the evidence adduced therein, **it is ordered as follows:-**

That the petitioner Mrs.J.Abirami herein, be and is hereby permitted to sell the property morefully set out in the schedule hereunder, on behalf of the minor son, S. Siva Ganesh to the purchaser M.Saravanan for a sale consideration of Rs.18,00,000/- (Rupees Eighteen Lakhs only).

2. That the petitioner herein, be and is hereby permitted to discharge the housing loan availed from HDFC Bank, by paying a sum of Rs.15,47,498/- (Rupees Fifteen Lakhs Forty Seven Thousand Four Hundred and Ninety Eight only) to HDFC Bank and after discharging the said loan, a sum of Rs.2,52,502/- (Rupees Two Lakhs Fifty Two Thousand Five Hundred and Two only) still remains as balance out of the total sale consideration received by the petitioner herein.

3. That out of the said amount of Rs.2,52,502/- the petitioner herein, shall be entitled to appropriate for herself a sum of Rs.1,26,251/- and the remaining amount of Rs.1,26,251/- (Rupees One Lakhs Twenty Six Thousand Two Hundred and Fifty one only) is the share of the minor Son



S.Siva Ganesh and the said amount of Rs.1,26,251/- shall be kept in Fixed Deposit in any nationalized Bank and the said Fixed Deposit, receipt shall be taken in the name of the minor Master S.Siva Ganesh shall be deposited with the Registrar General of this Court in safe custody, which shall be renewed periodically by the petitioner till Master S.Siva Ganesh attains majority.

4. That there shall be no costs of this Petition.

SCHEDULE OF PROPERTY AS PER FORM 27 OF OS RULES

<u>Sl.No</u>	<u>Description of Property</u>	<u>Approximate Value</u>	<u>Persons in possession of the Property</u>
1.	All that piece and parcel of land measuring an extent of 360 sq.ft. , undivided share of land out of 2528 sq.ft., bearing Plot No.5, together with plinth area measuring an extent of 661 sq.ft., including common area , common share of Bore well with Motor, Over Head water Tank, Electricity Connection etc., in Residential Flat Address: Flat No.S2, Second Floor, "SRI VILAS", L.T. AVENUE, MOULIVAKKAM, Chennai – 600 116, Comprised in Old Survey No. 42/9, Patta No.1672, as per Patta New Survey No.42/50, situated at MOULIVAKKAM VILLAGE, "L & T NAGAR" present	18,00,000/- After settling dues minor's share 1,26,251/-	Petitioner and Minor



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<u>Sl.No</u>	<u>Description of Property</u>	<u>Approximate Value</u>	<u>Persons in possession of the Property</u>
	layout name "L.T. AVENUE" (M.M.D.A) Approval PPD/LO.No. 134/1993, Vide letter No.L1/22000/1993, dated:27.10.1993) formerly in Pallavaram Taluk, now Kundrathur Taluk, Kancheepuram District, within the Registration District of Chennai-South and Sub-Registration District of KUNDRATHUR. <u>BOUNDED ON THE :</u> North by - Plot No.6 South by - Plot No.4 East by - 24 Feet Road West by - Vacant Land (Present Building) <u>MEASURING ON THE :</u> Northern side - 72 Feet Southern side - 72 Feet 6 inches Eastnern side - 35 Feet Western side - 35 Feet		

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 15TH DAY OF NOVEMBER 2021.

Sd/-

ASSISTANT REGISTRAR (O.S.-II)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)



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ED

10.12.2021

20.12.2021

O.P.No. 563 of 2021

ORDER

DATED : 15.11.2021

THE HON'BLE MR. JUSTICE
ABDUL QUDDHOSE

FOR APPROVAL: 04.01.2022

APPROVED ON : 05.01.2022

Copy to :-

1. The Registrar General,
High Court, Madras – 104.
2. The Accounts Section.
3. Correspondence Seat.



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.11.2021

Coram:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Original Petition No.563 of 2021

J. Abirami
W/o.P.Saravanan (Late)
No.32/13, Govindaraj Street,
Puliyurpuram,
Kodambakkam,
Chennai 600 024

.. Petitioner

Original Petition filed under Section 8(2)(A) of The Hindu Minority and Guardianship Act, 1956 read with Under Order XXI Rule 2 & 3 of O.S. Rules, praying that

(i) petitioner may be permitted to sell the schedule mentioned property on behalf of the minor namely S.Siva Ganesh

(ii) petitioner may be permitted to deposit the minor's share remaining amount of the sale proceeds i.e. Rs.1,26,251/- (Rupees One Lakh Twenty Six Thousand Two Hundred Fifty One Only) into a nationalized bank for and on behalf of minor namely S.Siva Ganesh and the petitioner as a mother and natural guardian to receive the interest from the deposit of the uplift and livelihood of the minor.



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ORDER

This Original Petition has been filed under Section 8(2)(A) of The Hindu Minority and Guardianship Act, 1956 read with Under Order XXI Rule 2 & 3 of O.S. Rules seeking permission of this Court to sell the share of the minor, S.Siva Ganesh in the petition schedule property.

2. The petitioner is the mother of the minor S.Siva Ganesh, who was born on 02.10.2017. The petitioner's husband, P.Saravanan was the owner of the petition schedule property. He died on 28.05.2020, after having been infected with corona. He purchased the property on 15.07.2019 under a sale deed, registered as Document No.11386 of 2019. The deceased P.Saravanan, left behind his mother Murugammal and his wife/the petitioner herein and his minor son, S.Siva Ganesh as his only legal heirs. The deceased P.Saravanan had also mortgaged the petition schedule property with M/s.Housing Finance Corporation Limited (HDFC) Bank and availed a housing loan on 09.07.2019. As seen from the petition, a sum of Rs.15,47,498/- is due and payable to the Bank towards the housing loan. In the petition filed seeking permission to sell the minor's share, the petitioner has stated that she is a house wife and she has to take care of herself as well



that without selling the petition schedule property, she cannot maintain herself as well as her minor son. After the death of the petitioner's mother-in-law, Murugammal on 11.10.2020, the petitioner and her minor son S.Siva Ganesh became entitled to 50% share each in the petition schedule property. In the petition filed seeking permission to sell the minor's share, the petitioner has also stated that after payment of the mortgage dues to the Bank, the petitioner is willing to deposit the minor's share before this Court as directed by this Court.

3. Before the learned Master, the following documents were marked as Exhibits on the side of the petitioner.

<i>Exhibits</i>	<i>Nature of the document</i>
Ex.P-1	Birth Certificate of the minor son S.Siva Ganesh, confirming that he was born on 02.10.2017.
Ex.P-2	Certified copy of the Sale Deed dated 15.07.2019 registered as Document No.11386 of 2019, S.R.O.Kundrathur, under which, the petitioner's husband P.Saravanan purchased the petition schedule property.
Ex.P-3	Certified copy of the Memorandum of Deposit of Title Deeds dated 15.07.2019 in favour of M/s.Housing Development Finance Corporation Limited, registered as Document No.11387 of 2019, S.R.O. Kundrathur, under which, the petition schedule property was mortgaged by the petitioner's husband in favour of M/s.HDFC.



<i>Exhibits</i>	<i>Nature of the document</i>
Ex.P-4	Death Certificate of the petitioner's husband to confirm that he died on 28.05.2020
Ex.P-5	Legal Heirship Certificate dated 12.10.2020, confirming that after the death of petitioner's husband P.Saravanan, the petitioner, her minor Son, Siva Ganesh and the petitioner's mother-in-law, namely, Murugammal, as the legal heirs of the deceased P.Saravanan.
Ex.P-6	Death Certificate of mother-in-law, P.Murugammal, confirming that she died on 11.10.2020.
Ex.P-7	Encumbrance Certificate dated 15.06.2021 for the petition mentioned property.
Ex.P-8	Original Sale Agreement dated 29.06.2021 entered into between the petitioner, her minor son, S.Siva Ganesh and the purchaser, M.Saravanan, under which, the sellers have agreed to sell the petition schedule property to M.Saravanan for the total sale consideration of Rs.18,00,000/-.
Ex.P-9	HDFC Bank housing loan statement dated 19.07.2021 for the period from 01.04.2020 to 31.03.2021 in respect to the loan availed by the petitioner's husband P.Saravanan in Loan Account No.642298518.
Ex.P-10	Photographs of the petitioner along with her minor son, S.Siva Ganesh
Ex.P-11	Photocopy of the Aadhaar Card of the petitioner, bearing No.7551 7513 8768.
Ex.P-12	Photocopy of the Aadhaar Card of the purchaser, M.Saravanan, bearing No.3011 5890 2735
Ex.P-13	Guideline value of the petition schedule property.
Ex.P-14	Declaration of willingness to accept the office of guardian of the person and property of minor son, S.Siva Ganesh



4. As seen from the documents marked as Exhibits before the learned Master, it is clear that the petitioner's husband P.Saravanan, died on 28.05.2020 leaving behind the petitioner, her minor son S.Siva Ganesh and the mother-in-law of the petitioner, Murugammal, as the only legal heirs. It is also seen from the documents marked as Exhibits that after the death of P.Saravanan, his mother Murugammal also died on 11.10.2020. Since Murugammal has died, it is clear that the petitioner, her minor son, S.Siva Ganesh are the only legal heirs of the deceased P.Saravanan.

5. The documents marked as Exhibits will also reveal that the deceased P.Saravanan had availed housing loan from HDFC Bank by creating mortgage over the petition schedule property. As seen from the statement issued by the HDFC Bank on 19.07.2021, a sum of Rs.15,47,498/- (Rupees fifteen lakhs fourty seven thousand four hundred and ninety eight only) is due and payable by the borrower (P.Saravanan), who is the petitioner's husband.

6. In view of the death of Murgammal, the mother-in-law of the petitioner, it is clear that the petitioner and her minor son, S.Siva Ganesh, are each entitled to 50% share in the petition schedule property. The petitioner has also given an undertaking before this Court as seen from the petition that she is willing to deposit the minor's share as directed by this



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7. In the petition, the petitioner has also stated that being the house wife and having no other source of income, it has become necessary for her to sell the petition schedule property in the interest of her minor son, S.Siva Ganesh, who is having 50% share in the same. The petitioner has caused paper publication in one issue of “Malai Malar” dated 16.09.2021 disclosing her intention to sell the petition schedule property, which includes the minor's share.

8. Despite the public notice, till date no objections have been received for the proposed sale. The petitioner has already entered an agreement with the purchaser M.Saravanan and an Agreement for Sale dated 29.06.2021, under which, the petitioner has agreed to sell the petition schedule property to M.Saravanan for the total sale consideration of Rs.18,00,000/-(Rupees eighteen lakhs only) has been marked as Ex.P-8.

9. This Court, after perusing and examining the pleadings as well as the evidence available on record, is inclined to grant the relief as prayed for in O.P.No.563 of 2021, as the sale of the minor's share is his beneficial interest.



10. Accordingly, the petitioner is permitted to sell the petition schedule property on behalf of the minor son, P.Siva Ganesh to the purchaser, M.Saravanan for a sale consideration of Rs.18,00,000/- (Rupees eighteen lakhs only) and she is permitted to discharge the housing loan availed from HDFC Bank, by paying a sum of Rs.15,47,498/- (Rupees fifteen lakhs fourty seven thousand four hundred and ninety eight only) to HDFC Bank and after discharging the said loan, a sum of Rs.2,52,502/- (Rupees two lakhs fifty two thousand five hundred and two only) still remains as balance out of the total sale consideration received by the petitioner. Out of the said amount of Rs.2,52,502/-, the petitioner is entitled to appropriate for herself a sum of Rs.1,26,251/- and the remaining amount of Rs.1,26,251/- is the share of the minor son S.Siva Ganesh. The said amount of Rs.1,26,251/- shall be kept in Fixed Deposit in any nationalized Bank and the said Fixed Deposit shall be taken in the name of the minor Master, S.Siva Ganesh, which shall be renewed periodically by the petitioner till Master S.Siva Ganesh attains majority. The said Fixed Deposit receipt for Rs.1,26,251/- taken in the name of Master S.Siva Ganesh shall be deposited with the Registrar (Original Side of this Court) in safe custody.



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11. Accordingly, this O.P.No.563 of 2021 is allowed as prayed for. No costs.

Sd./- A.Q.J.,

15/11/2021

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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