



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.1023 of 2019

In the matter of Hindu Minority
Guardianship Act, 1956

and

In the matter of Minor Vanssh
K.Parekh, S/o.(Late) Ketan C.Parekh,
born on 20.09.2008 and Prisha
K.Parekh, D/o.(Late) Ketan C.Parekh,
born on 08.12.2012, Rep.by their
Mother (NaturalGuardian)
Mrs.Bindhu K.Parekh.. Petitioner.

Bindu K.Parekh
W/o. (Late) Ketan C.Parekh
No.23, Murugesan Street,
Ashtapujam Road, Choolai,
Chennai 600 112.

...Petitioner

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

a) Grant permission to sell the schedule mentioned properties, i.e.
minor's undivided share in item Nos.1, 2, 3 and 4 along with the share of the
petitioner and co-sharer Alka C.Parekh in respect of item No.1 of the
schedule mentioned property.

(ii) Grant permission to deposit a sum of Rs.21,80,350/- towards the
share of the minor child Vanssh K.Parekh and a sum of Rs.21,80,350/-
towards the share of the minor child Prisha K.Parekh in Canara Bank,



Perambur Barracks Road Branch till they attain majority into the credit of the above mentioned petition;

(iii) Grant permission to withdraw the interest amount periodically that accumulates over the deposited amount for the maintenance and educational expenses of minor children Vanssh K.Parek and Prisha K.Parekh into the credit of the above mentioned petition.

This Original Petition coming on this day before this court for hearing in the presence of M/s.Ralph V.Manohar, 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 and

it is ordered as follows:-

That Bindu K.Parekh, the petitioner herein, be and is hereby permitted to sell the property morefully setout in the schedule hereunder (i.e) minor's undivided share in item Nos.1,2,3 and 4 along with the share of the petitioner and co-sharer Alka C.Parekh in respect of Item No.1 of the schedule mentioned property.

2. That the petitioner herein be and is hereby permitted to deposit a



Hundred and Fifty only) towards the share of the minor child Vanssh K.Parekh and a sum of Rs.21,80,350/- (Rupees Twenty One Lakhs Eighty Thousand Three Hundred and Fifty only) towards the share of the minor child Prisha K.Parekh in Canara Bank, Perambur Barracks Road Branch till they attain majority into the credit of the O.P.No.1023 of 2019.

3. That the petitioner herein be and is hereby permitted to withdraw the interest amount periodically that accumulates over the deposited amount for the maintenance and educational expenses of minor children Vanssh K.Parek and Prisha K.Parekh into the credit of the Petition.

Schedule of Properties

Item No.1

All that piece and parcel of land and building situated at bearing Old Door No.26-A, New Door No.2 (as per Corporation record Old No.2, New Door No.3), Pachaiappa's College Hostel Road, Chetpet, Chennai-600 031, comprised in R.S.No.374/45, S.No.111, Block No.22 of Egmore Village, measuring an extent of 1730 Sq.Ft. And bounded on the

North by : Pachaiyappa's College Hostel Road

South by : Southern Railway Compound Wall;

East by : Property belongs to Smt. Visalakshi and

West by : Pachaiyapp's College Hostel:



Situated within the Registration District of Chennai Central and Sub-Registration District of Periamet.

Item No.2

All that house and ground bearing Artisan Plot No.162, 14th East Cross Street, Mahakavi Bharathi Nagar, Vyasarpadi, Chennai-600 039, comprised in S.No.737/2 part of Perambur Village, situated in the sanctioned plan of N.M.N.H. Scheme of the Tamil Nadu Housing Board Vyasarpadi Area, measuring on the North 22 feet, on the South 22 feet, on the East 40 feet and on the West 40 feet and in all admeasuring 880 sq.ft., together with building Ground and First floor therein, having a plinth area of 690 square feet in each floor (ground and First Floors) bounded on the North by 20 feet Road (14th East Cross Road), South by A.P.No.191, East by A.P.No.163 and West by A.P.No.161 and situated within the Registration Sub-District of Purasaiwalkam and in the Registration District of Central Chennai.

Item No.3

All that ownership flat bearing Flat No.C, situated in the First Floor of the premises bearing very Old Door No.19, Old door No.23, New No.4, Murugesu Mudali Street (formerly Ashtabujam Road, 2nd Lane), Choolai,



Chennai-600 112, comprised in Old S.No.2026, R.S.No.1894/1 and 1894/8, C.C.No.1838 of Purasaiwalkam Village, with the built-up area of the flat measuring 910 Sq.Ft., together with 438 Sq.Ft. of undivided share in the land measuring 2210 Sq.Ft., and bounded on the

North by : Duraikannu's House;

South by : Lakshmi Amman Koil

East by : Murugesamudali Street

West by : Kuttiappan Naicker's House

Situated within the Limits of Chennai Corporation, Registration District of Chennai Central and Sub-Registration District of Purasaiwalkam.

Item No.4

All that Vacant piece and parcel of Vacant land situated at No.47, Maharajapuram Village, Vijayapuram Mandalam, Chittor District, A.P. Sri Balaji Registration District, Approval B.A.No.2/1.03.2007 and PR No.14/2007, dated 12.02.2007, Plot No.187 comprised in Survey No.111/14A & 111/15 an extent of 1200 Sq.Ft. (133.33 Sq.Yards) in “Maruthi Town”.

Bounded by

North by – Plot No.186

South – 20 Feet 5th Street



East – 30 Feet 2nd Main Road

West – Plot No.188

Measuring

Northern Side - 20 Feet

Southern Side - 20 Feet

Eastern Side - 60 Feet

Western Side - 60 Feet

Totalling to an extent of 1200 sq.ft (133.33 Sq.Yards)

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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of the Orders/Judgments/Decrees in this format.



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02.09.2021

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O.P. Nos.1023 of 2019

ORDER

DATED: 18.08.2021

THE HON'BLE MR. JUSTICE

V.PARTHIBAN

FOR APPROVAL: 03.09.2021

APPROVED ON : 03.09.2021

Copy to:

1. The Registrar General,
High Court, Madras.
2. Accounts Section.



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.08.2021

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

O.P.No.1023 OF 2019

Bindu K.Parekh, W/o (late) Ketan C.Parekh

.. Petitioner

Original Petition filed under Section 8(2)(a) of the Hindu Minority and Guardianship Act, 1956 read with Order XXI Rules 2 and 3 of the Original Side Rules of this Court.

For petitioner : M/s.Ralph V.Manohar

ORDER

This Original Petition is filed for the following reliefs:

(i) to grant permission to sell the schedule mentioned properties, i.e. minor's undivided share in item Nos.1, 2, 3 and 4 along with the share of the petitioner and co-sharer Alka C.Parekh in respect of item No.1 of the schedule mentioned property.

(ii) to grant permission to deposit a sum of Rs.21,80,350/- towards the share of the minor child Vanssh K.Parekh and a sum of Rs.21,80,350/- towards the share of the minor child Prisha K.Parekh in Canara Bank,



Perambur Barracks Road Branch till they attain majority into the credit of the above mentioned petition;

(iii) to grant permission to withdraw the interest amount periodically that accumulates over the deposited amount for the maintenance and educational expenses of minor children Vanssh K.Parek and Prisha K.Parekh into the credit of the above mentioned petition.

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

(a) The petitioner's husband Ketan C.Parekh died on 17.03.2017 at No.4/23, Murugesan Street, Choolai, Chennai-600 112, leaving behind his wife Bindu K.Parekh (petitioner) and two minor children, namely Vanssh K.Parekh, aged 11 years (at the time of filing the petition) and Prisha K.Parekh, aged 7 years (at the time of filing the petition). The minor children are studying in Maharishi Vidya Mandir, Chetpet and are under the care and custody of the petitioner. Both the minor children ordinarily resides with the petitioner within the jurisdiction of this Court. Late Chandra Kant, the father of the deceased, i.e. Ketan C.Parekh pre-deceased him on 06.06.2008 and the mother of the deceased, i.e. Rekha C.Parekh passed away on 20.01.2018.

(b) Item No.1 of the schedule mentioned property bearing Old Door



No.3), Pachaiappa's College Hostel Road, Chetpet, Chennai-600 031, comprised in R.S.No.374/45, S.No.111, Block No.22 of Egmore Village, measuring an extent of 1730 Sq.Ft., was purchased by the Karta of Hindu Undivided Family, deceased Ketan C.Parekh along with Bindu K.Parekh, Rekha C.Parekh and Alka C.Parekh from M/s.R.Y.A.Cosmo Dispensary Trust, represented by its Trustee P.Suresh Kumar under a Deed of Sale, dated 06.04.2016, registered as Doc.No.1184 of 2016 at the SRO of Periamet.

(c) Item No.2 of the schedule mentioned property bearing Plot No.162, 14th East Cross Street, Mahakavi Bharathi Nagar, Vyasarpadi, Chennai-600 039, comprised in S.No.737/2 part of Perambur Village, measuring an extent of 880 Sq.Ft. was purchased by the deceased Ketan C.Parekh from one Mrs.Ameena Essa and three others under a Deed of Sale, dated 16.06.2004, registered as Doc.No.2444 of 2004 at the SRO of Purasaiwalkam, out of his own self-acquired funds.

(d) Item No.3 of the schedule mentioned property bearing Flat No.C, situated in the First Floor of the premises bearing very Old Door No.19, Old No.23, New No.4, Murugesu Mudali Street (formerly Ashtabujam Road, 2nd Lane), Choolai, Chennai-600 112, comprised in Old S.No.2026, R.S.No.1894/1 and 1894/8, C.C.No.1838 of Purasaiwalkam Village, with the built-up area of the flat measuring 910 Sq.Ft., together with 438 Sq.Ft.



of undivided share in the land measuring 2210 Sq.Ft., was purchased by deceased Ketan C.Parekh along with his wife Bindu K.Parekh from Mr.Dilip Kumar Chordia (HUF), represented by its Karta Mr.Dilip Kumar Chordia under a Deed of Sale dated 18.01.2008, registered as Doc.No.170 of 2008 at the SRO of Purasaiwalkam.

(e) Item No.4 of the schedule mentioned property situated at No.47, Maharajapuram Village, Vijayapuram Mandalam, Chittor District, A.P. Sri Balaji Registration District, Approval B.A.No.2/1.03.2007 and PR No.14/2007, dated 12.02.2007, Plot No.187 comprised in Survey No.111/14A & 111/15 an extent of 1200 Sq.Ft. (133.33 Sq.Yards) in Maruthi Town, was purchased by the deceased Ketan C.Parekh from one Dr.Jabar Chand Jain under a Deed of Sale, dated 16.05.2008, registered as Doc.No.686 of 2008 at the SRO of Pichathur, Chittoor District.

(f) After the purchase of the schedule mentioned properties by (late) Ketan C.Parekh, he was in absolute possession and enjoyment of the same. After his demise, his legal heirs, namely the petitioner and two minor children inherited item Nos.1, 2, 3 and 4 of the schedule mentioned property. The petitioner along with the minor children are in possession, enjoyment of the schedule mentioned property along with the co-sharer Alka C.Parek in respect of item No.1 of the schedule mentioned property.

(g) During the life-time of the petitioner's husband Ketan C.Parekh,



he had borrowed a total sum of Rs.25,00,000/- from relatives and friends for his business and also for his urgent family needs. The petitioner's husband was in the business of event management services and he died due to sudden heart attack. After the sudden demise of the petitioner's husband, the entire burden to maintain the family was on the heads of the petitioner.

(h) After the demise of the petitioner's husband, the petitioner is not capable and cannot handle the business run by her deceased husband and the entire family was depending on the petitioner's husband and after his demise, there is no source of income. Thus, it has become difficult to maintain her family, educational expenses and to fulfil the daily needs of her two minor children and also to settle the debts due. Therefore, the petitioner, along with her children, has decided to sell their respective shares in the property described in the schedule mentioned property and also along with the co-sharer Alka C.Parekh in item No.1 of the schedule mentioned property.

(i) The petitioner and the legal heirs along with the co-sharer, namely Alka C.Parek, wife of Vijay, have agreed to sell item No.1 of the schedule mentioned property for a total sale consideration of Rs.1,72,57,000/- and the guideline value of item No.1 of the schedule mentioned property land value is Rs.1,42,57,000/- (Rs.8,241/- per Sq.Ft. for 1,730 Sq.Ft.) and construction



Rs.17,25,700/- towards their share from the sale proceeds.

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(j) In respect of item No.2 of the schedule mentioned property, it is decided to sell the same for a total sale consideration of Rs.33,59,000/- and the guideline value of item No.2 of the schedule mentioned property land value is Rs.23,59,000/- (Rs.2,680/- per Sq.Ft. for 880 Sq.Ft) and building value is Rs.10,00,000/-. The minor children will get a sum of Rs.16,79,000/- towards their share from the sale proceeds.

(k) In respect of item No.3 of the schedule mentioned property, it is decided to sell the same for a total sale consideration of Rs.34,65,000/- and the guideline value of item No.3 of the schedule mentioned property is Rs.3,500/- per Sq.Ft. for 990 Sq.Ft. The minor children will get a sum of Rs.8,66,000/- towards their share from the sale proceeds.

(l) In respect of item No.4 of the schedule mentioned property, it is decided to sell the same for a total sale consideration of Rs.1,80,000/- and the guideline value of item No.4 of the schedule mentioned property is Rs.150/- per Sq.Ft. for 1,200 Sq.Ft. The minor children will get a sum of Rs.90,000/- towards their share from the sale proceeds.

(m) The minor children are under the custody of the petitioner and she is taking care of their daily needs, food, shelter, education and all other day-to-day necessities. The petitioner is not having any adverse interest to that of her minor children.



(n) She is in need of money for providing her children good education, shelter and other needs. She is facing a lot of trouble in mobilising funds for providing the day-to-day necessities of her minor children.

(o) She is not capable of managing or developing the schedule mentioned properties single-handedly. She is not having any other property other than the share from the schedule mentioned properties. The petitioner wants to sell the schedule mentioned properties which includes the minors' share only for the benefit of the minor children. There is no mala-fide intention on her part and she is seeking permission from this Court to sell the minors' share in accordance with the guideline value and she undertakes to deposit the minor children's share from the sale consideration amount from the prospective purchaser into this Court and she may be permitted to withdraw the interest accumulated on the share of the minors' amount for bringing up her children and providing quality education.

(p) No other application is pending before any other Court including this Court. No prejudice will be caused to any other person in permitting the petitioner to sell the schedule mentioned property and there are no other legal heirs of (late) Ketan C.Parekh.

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



3. The petitioner, who examined herself as P.W.1, reiterated the averments made in the petition and marked the following documents viz., Exs.P-1 to P-12. Ex.P-1 is the photocopy of the sale deed dated 16.06.2004 executed in favour of Mr.Ketan C.Parekh. Ex.P-2 is the photocopy of the Construction Agreement, dated 01.11.2007 between Deepakh Constructions and Ketan C.Parekh and Bindu K.Parekh. Ex.P-3 is the photocopy of the sale deed dated 18.01.2008 in favour of Ketan C.Parekh and Bindu K.Parekh. Ex.P-4 is the photocopy of the sale deed dated 16.05.2008 in favour of Ketan C.Parekh. Ex.P-5 is the computer generated copy of the Birth Certificate of Vanssh K.Parekh, who was born on 20.09.2008. Ex.P-6 is the computer generated Birth Certificate of Prisha K.Parekh, who was born on 08.12.2012. Ex.P-7 is the photocopy of the sale deed, dated 06.04.2016 executed in favour of Mr.Ketan C.Parekh and 3 others along with the photocopies of Court orders and paper publications. Ex.P-8 is the photocopy of the Death Certificate of Ketan C.Parekh, who died on 17.03.2017. Ex.P-9 is the photocopy of the Legal Heirship Certificate dated 31.08.2017 in respect of Ketan C.Parekh. Ex.P-10 is the photocopy of the Death Certificate of Rekha C.Parekh who died on 20.01.2018. Ex.P-11 is the photocopy of Aadhar Card bearing No.4514 3755 1544. Ex.P-12 is the computer generated copy of the Income Tax statement for the financial year 2019-2020. Ex.P-17 is the original agreement for sale, dated 27.05.2020.



Ex.P-18 is the original Valuation Report, dated 05.03.2021.

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4. The sister-in-law of the petitioner was examined as P.W.2. She marked Ex.P-13 being the computer generated Legal Heirship Certificate dated 10.09.2018 in respect of Rekha C.Parekh. Ex.P-14 is the consent affidavit given by the Vimal C.Parekh. Ex.P-15 is the consent affidavit given by the Bhagya Baves Doshi. Ex.P-16 is the consent affidavit given by the Darshan Baves Doshi.

5. 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.

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

(i) The petitioner is granted permission to sell the schedule mentioned properties, i.e. minor's undivided share in item Nos.1, 2, 3 and 4, along with the share of the petitioner and co-sharer Alka C.Parekh in respect of item No.1 of the schedule mentioned property.

(ii) The petitioner is granted permission to deposit a sum of Rs.21,80,350/- towards the share of the minor child Vansh K.Parekh and a sum of Rs.21,80,350/- towards the share of the minor child Prisha K.Parekh in Canara Bank, Perambur Barracks Road Branch till they attain majority into the credit of the above mentioned petition.

(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 children Vanssh K.Parek and Prisha K.Parekh into the credit of the above mentioned petition.

Sd./-V.P.N.J

18.08.2021

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Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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