



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 03rd DAY OF JANUARY 2021

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

O.P. No.494 of 2021

In the matter of Guardian and Wards
Act, 1890

and

In the matter of Minor Child
E.Yamini, aged about 12 years born
on 05.07.2009.

E.Latha
W/o.Late.Eliyas
No.2, P.V.Koil 1st Street,
Mylapore,
Chennai 600004.

.... Petitioner

Original Petition praying that this Hon'ble Court may be pleased:-

a) to appoint the petitioner as the Guardian of the person and property
of the minor namely E.Yamini.

b) To permit the petitioner to sell the minor's share in the petition
mentioned property to (1) Mrs.R.Malathi, W/o.Suresh and (2)

Mrs.V.Suganthi, W/o.A.Vijayakumar for Rs.65,00,000/- (Rupees Sixty Five

Lakhs only) and to execute the sale deed on behalf of the minor upon



receiving the minor's share., i.e., a sum (*) **Rs.3,61,111/- (Rupees Three Lakhs Sixty One Thousand One Hundred and Eleven only)**

C) To deposit of share of the sale proceeds i.e., a sum of (*) **Rs.3,61,111/- (Rupees Three Lakhs Sixty One Thousand One Hundred and Eleven only)** of the minor E.Yamini in any Nationalized Bank in the name of the minor or as may be directed by the Court.

(*) (Prayer b & C amended as per order dated 18.11.2021 in Application No.4131/2021)

This Original Petition coming on this day before this court for hearing in the presence of M/s.S.Akila, advocate for the petitioner herein and upon reading the petition together with the declaration of willingness of E.Latha, the petitioner herein accepting the office of Guardianship of the person and property of the minor above named filed herein and the other exhibits therein referred to and upon perusing the evidence adduced therein,

it is ordered as follows:-

That E.Latha, the petitioner herein be and is hereby appointed as the Guardian of the minor E.Yamini, and her property morefully setout in the schedule hereunder during her minority or until further orders of this court.



2. That the petitioner/Guardian appointed herein be and is hereby permitted to sell the minor's share in the property morefully setout in the schedule hereunder to (1) Mrs.R.Malathi, W/o.Suresh and (2) Mrs.V.Suganthi, W/o.A.Vijayakumar for Rs.65,00,000/- (Rupees Sixty Five Lakhs only) and to execute the sale deed on behalf of the minor upon receiving the minor's share., i.e., a sum Rs.3,61,111/- (Rupees Three Lakhs Sixty One Thousand One Hundred and Eleven only)

3. That on receipt of sale consideration the Petitioner/Guardian appointed herein shall take a Demand Draft in the name of the minor E.Yamini for a Sum of Rs.3,61,111/- (Rupees Three Lakhs Sixty One Thousand One Hundred and Eleven only) and shall deposit the same with the custody of the Registrar General of this Court and the Fixed Deposit shall be renewed periodically by the petitioner till the minor attains majority.

Schedule of Property

<i>S.No.</i>	<i>Description of Property</i>	<i>Approximate Value</i>	<i>Persons in possession of the property</i>
1	All that piece and parcel of the land and house bearing door No.13, Plot No.10, land measuring 800 sq.ft. and 1600 sq.ft. building theon comprised in Re-Survey	(*) Rs.3,61,111/- (Rupees Three Lakhs Sixty One Thousand One Hundred	Property possessed by the deceased (Grand Father of the Minor)



S.No.	Description of Property	Approximate Value	Persons in possession of the property
	No.1012 (Part) of Mylapore Village, situated at 3rd Street, Kailapuram, Mylapore, Chennai 600004 and bounded on North by - Plot No.7 belongs to K.M.Arumugam South by - Kailasapuram 3rd Street, Plot No.43/1012 East by - Plot No.11 belongs to Mrs.Neelavathiammal West by - Plot No.9 belongs to N.Mathurai and within the jurisdiction of the Registration District Chennai Central and Sub-registration District of Mylapore.	and Eleven only) (Minor's Share)	

(*) Amended as per order dated

18.11.2021 in Application No.4130/2021.

WITNESS THE HON'BLE MR.JUSTICE MUNISHWAR NATH BHANDARI ACTING CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 03rd DAY OF JANUARY 2022.

Sd./-

ASSISTANT REGISTRAR(O.S.II)

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



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04.02.2022

O.P. No.494 of 2021

ORDER:-

DATED: 03.01.2022

THE HON'BLE MR. JUSTICE
ABDUL QUDDHOSE

FOR APPROVAL: 11.02.2022

APPROVED ON : 11.02.2022



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Mrs.V.Suganthi, W/o.A.Vijayakumar for Rs.65,00,000/- (Rupees Sixty Five
Lakhs only) and to execute the sale deed on behalf of the minor upon



receiving the minor's share., i.e., a sum (*) **Rs.3,61,111/- (Rupees Three Lakhs Sixty One Thousand One Hundred and Eleven only).**

C) To deposit of share of the sale proceeds i.e., a sum of (*) **Rs.3,61,111/- (Rupees Three Lakhs Sixty One Thousand One Hundred and Eleven only)** of the minor or as may be directed by the Court.

(*) (b & C amended as per order dated 18.11.2021 in Application No.4131/2021)

This Original Petition coming on this day before this Court for hearing the Court made the following orders:-

This petition has been filed under Guardians and Wards Act, 1890 read with Order XXI Rule 2 and 3 of Original Side Rules, seeking for permission to sell the share of the minor E.Yamini in the petition schedule mentioned property.

2. The mother of the Minor E.Yamini has filed this petition. According to the petitioner, the minor E.Yamini is entitled to 15/270th share in the petition schedule mentioned property. The owners of the petition schedule mentioned property have entered into sale agreement dated 14.03.2021 and as per the said sale agreement, the total sale consideration is Rs.65,00,000/-(Rupees Sixty five lakhs) and minor E.Yamini's share will be Rs.3,61,111/-(Rupees Three lakhs sixty one thousand one hundred one only).



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3. Before the learned Master, the petitioner, who is the mother of the minor E.Yamini, born on 05.07.2009, was examined as witness (P.W.1). She reiterated the contents of the petition filed in support of O.P.No.494 of 2021 and 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	Computer generated birth certificate of E.Yamini, who was born on 05.07.2009.
Ex.P-2	Photocopy of the Aadhar Card of E. yamini, bearing No.2841 7852 3277
Ex.P-3	Photo copy of the Sale Deed dated 03.03.1989 executed in favour of Susainathan.
Ex.P-4	Photocopy of the burial ground report of C.Susainathan, who died on 26.05.1994.
Ex.P-5	Certified copy of the Legal Heirship Certificate dated 23.09.2021.
Ex.P-6	Photocopy of the Burial Ground Report of Mrs.S.Regina Mary, who died on 13.11.2017.
Ex.P.7	Computer generated death certificate of S.Eliyas, who died on 18.01.2015.
Ex.P.8	Photocopy of the Legal Heirship Certificate in respect of S.Eliyas
Ex.P.9	Photocopy of the Sale Agreement dated 14.03.2021.
Ex.P.10	Genealogy
Ex.P.11	Photocopy of petitioner's Aadhar Card bearing No.2170 6841 8703.
Ex.P.12	Computer generated Encumbrance Certificate dated 02.02.2021.
Ex.P.13	Declaration of willingness
Ex.P.14	Computer generated death certificate of Mrs.S.Regina Mary, who died on 13.11.2017.
Ex.P.15	Original Valuation Report dated 04.12.2021
Ex.P.16	Genealogy Chart and Shares



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4. As seen from the evidence available on record, Mr.S.Eliyas, the father of the minor E.Yamini died on 18.01.2015. The Sale deed dated 03.03.1989 has been marked as Ex.P.3, which discloses that Mr.Susainathan, who is the grand father of the Minor E.Yamini, was the original owner of the petition schedule mentioned property and after the death of Mr.C.Susainathan(the grand father of Minor E.Yamini), Mr.S.Eliyas, the father of the minor E.Yamini was entitled to 15/270th share in the petition. The owners of the petition schedule mentioned property have entered into sale agreement on 14.03.2021 which has been marked as ExP.9. Under the said sale agreement, a total sale consideration for the petition schedule mentioned property is Rs.65,00,000/-(Rupees Sixty Five Lakhs only). A Valuation Report dated 04.12.2021 has been marked as Ex.P.15. As seen from the Valuation Report, the guideline value of the petition schedule mentioned property is Rs.16,08,000/-(Rupees Sixteen Lakhs Eight thousand only); the market value of the property is Rs.68,00,000/-(Rupees Sixty Eight lakhs only) and the realisable value of the property is Rs.64,60,000/-.

5. Since the owners of the petition schedule mentioned property have entered into agreement of sale dated 14.03.2021 (Ex.P.9), wherein, the total sale consideration is mentioned as Rs.65,00,000/-(Rupees Sixty five lakhs),



WEB COPY this Court, after giving due consideration to the Valuation Report (Ex.P.15), is of the considered view that the total sale consideration mentioned under the agreement of sale dated 14.03.2021 is only in accordance with the market value of the subject property.

6. The petitioner has stated that the minor's interest is being sold only in her interest. It is also the case of the petitioner that all the other co-owners have agreed to sell the property. In the affidavit filed in support of O.P.No.494 of 2021, the petitioner has stated that proposed sale of the petition mentioned property is a legal necessity and also for the interest and welfare of the minor child. She has categorically pleaded that the minor child has not been put into any loss or detriment on account of selling of petition mentioned property and the petitioner also undertakes to abide by any condition to be imposed by this Court in respect of the minor's share of the sale consideration.

7. The subject property, for which, permission is sought for to sell the minor's share is a street house and seems to be in a dilapidated condition. Further, when there are so many co-owners, it will be difficult in the beneficial interest of the minor as no useful purpose will be served if the property is allowed to remain in 'as is where condition'. Once sale consideration is received, this Court is of the considered view that the sale consideration payable to the minor can be utilised for her welfare.



8. After giving due consideration to the evidence available on record, this Court is inclined to grant permission to the petitioner as prayed for in OP No.494 of 2021 to sell the minor E.Yamini's share in the petition schedule mentioned property and the sale consideration payable to the minor i.e., Rs.3,61,111/-(Rupees Three lakhs sixty one thousand one hundred one only) has to be kept in a Fixed Deposit in her name till she attains majority.

9. Accordingly, O.P.No.494 of 2021 is allowed as prayed for. On receipt of sale consideration, the petitioner shall take a Demand Draft in the name of the minor E.Yamini for a sum of Rs.3,61,111/-(Rupees Three lakhs sixty one thousand one hundred one only) and shall deposit the same with the custody of the Registrar General of this Court and the Fixed Deposit shall be renewed periodically by the petitioner till the minor attains majority.

10. O.P.No.494 of 2021 is allowed as prayed for.

Sd./-A.Q.J
03.01.2022

//Certified to be true copy//

1. Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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