



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 28th DAY OF JANUARY 2022

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

O.P.No.587 of 2021

In the matter of Guardian and Wards
Act

and

In the matter of Minor Child **Minor.**
Mohammed Iqbal

S/o. Late. Javid Iqbal, Aged about 12
years.

Mrs. Shakila Banu, aged about 35 years
W/o. Late.Javid Iqbal
Nelson Manickam Road, MGR Nagar,
1st Floor, No.1, Railway Colony 3rd Street,
Aminjikarai, Chennai - 600 029.

...Petitioner / Natural Guardian

Original Petition praying that this Hon'ble Court be pleased to appoint
the Petitioner as Guardian of Person and

a) Permit the Petitioner to sell the 50% undivided share in the
Property of minor Mohammed Iqbal in the Petition 'B' Schedule mentioned
property in favor of Mr.S.A.MUJEEBUR RAHMAN son of
Mr.S.B.S.Abbas, aged about 48 years, residing at No.14/2, Bharathiyar
Street, Choolaimedu, Chennai - 600 094 on behalf of minor Mohammed



b) To deposit 50% undivided share of minor Mohammed Iqbal of the sale proceeds of the minor in the manner as directed by this Hon'ble Court.

This Original Petition coming on this day before this Court for hearing in the presence of Mr.B.Sathish Babu, Advocate for the petitioner herein and upon reading the petition together with the Declaration of Willingness of Shakila Banu the petitioner herein, accepting the office of guardianship of the person and property of the minor above named and the Valuation Report of V.Ezhilarasan, Government Approved Valuer filed herein and the other exhibits therein referred to and upon perusing the evidence adduced therein, **it is ordered as follows:-**

That the petitioner herein, be and is hereby permitted to sell the B-Schedule property morefully set out in the schedule hereunder, which includes the half share of the minor J.Mohammed Iqbal for the total Sale Consideration mentioned under the sale agreements, all dated 20.02.2021 marked as Exs.P6, P7 and P8 respectively in favour of S.A.Mujeebur Rahman.

2) That on receipt of the total Sale Consideration of Rs.9,30,000/-

(Rupees Nine Lakhs Thirty Thousand only), the petitioner herein, shall take



a fixed deposit in the name of her minor son Master J.Mohammed Iqbal for a sum of Rs.4,65,000/- (Rupees Four Lakhs Sixty Five Thousand only) being his half share and the said fixed deposit shall be taken in Indian Bank, High Court Branch, Madras for a period of one year initially, and thereafter, renewed periodically.

3) That the aforesaid fixed deposit shall be deposited with the Registrar General of this Court for safe custody.

SCHEDULE OF PROPERTY



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WEB COM ARS

16.02.2022

18.02.2022

01.03.2022

O.P.No.587 of 2021

ORDER

DATED : 28.01.2022

THE HON'BLE MR. JUSTICE
ABDUL QUDDHOSE

FOR APPROVAL: 01.03.2022

APPROVED ON : 01.03.2022

Copy to:-

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



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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

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a) Permit the Petitioner to sell the 50% undivided share in the
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property in favor of Mr.S.A.MUJEEBUR RAHMAN son of



Mr.S.B.S.Abbas, aged about 48 years, residing at No.14/2, Bharathiyar Street, Choolaimedu, Chennai - 600 094 on behalf of minor Mohammed Iqbal.

b) To deposit 50% undivided share of minor Mohammed Iqbal of the sale proceeds of the minor in the manner as directed by this Hon'ble Court.

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

This petition has been filed seeking permission to sell the minor's half share in the petition schedule-B property.

2. The petitioner is the second wife of the late M.Javid Iqbal, who died on 09.03.2017. Out of her wed-lock with M.Javid Iqbal, a son by name J.Mohammed Iqbal was born on 15.09.2007 and he is presently aged fourteen years.

3. There were disputes between the families of the first wife and the second wife of M.Javid Iqbal, which was the subject matter of C.S.No.118



of 2018 on the file of this Court. The parties compromised the dispute and a compromise decree dated 10.10.2018 came to be passed by this Court in C.S. No.118 of 2018. As per the said compromise decree, the Schedule-B property apart from other properties was allotted to the petitioner and her minor son J.Mohammed Iqbal.

4. The petitioner has stated in her petition filed in support of O.P. No.587 of 2021 that the schedule -B properties are not yielding any income and therefore it has to be sold in her interest and in the interest of her minor son J.Mohammed Iqbal, who is having half share in the said properties. It is also stated in the petition that since the petitioner is a lady, she is having difficulty in maintaining the schedule-B property, as she does not have proper assistance. It is also stated by the petitioner that more money is required to run her business by name Banu Gas Agency in a profitable manner and 50% share which she will be getting out of the sale proceeds of the schedule-B property will be useful for the said purpose.

5. The petitioner on her behalf as well as on behalf of her minor son J.Mohammed Iqbal, had entered into three agreements of sale, all dated 20.02.2021 with S.A.Mujeebur Rahman for the sale of the schedule-B



property for a total sale consideration of Rs.9,30,000/-, which according to the petitioner, is the market value for the subject properties. The petitioner is entitled for half share and the remaining half share, the minor J.Mohammed Iqbal is entitled.

6. Before the learned Master, the petitioner was examined as a witness (P.W.1). In her deposition, she has reiterated the contents of the petition filed in support of O.P. No.587 of 2021. Through P.W.1, the following documents were marked as Exhibits:-

<i>Exhibits</i>	<i>Nature of the document</i>
Ex.P1	Photocopy of the Judgment dated 10.10.2018 passed in C.S. No.118 of 2018.
Ex.P2	Computer generated death certificate of M.Javid Iqbal, who died on 09.03.2017.
Ex.P3	Computer generated death certificate of P.A.Nazeem Banu, who died on 22.04.2017.
Ex.P4	Computer generated birth certificate of J.Mohammed Iqbal, who died on 15.09.2007.
Ex.P5	Photocopy of the Legal Heirship certificate dated 23.02.2018 in respect of M.Javid Iqbal.
Ex.P6	Photocopy of the Agreement for sale dated 20.02.2021.



<i>Exhibits</i>	<i>Nature of the document</i>
Ex.P7	Photocopy of the Agreement for sale dated 20.02.2021.
Ex.P8	Photocopy of the Agreement for sale dated 20.02.2021.
Ex.P9	Photocopy of the Aadhaar card of the minor J.Mohammed Iqbal, bearing No.8828 5073 7621.
Ex.P10	Petitioner's declaration of willingness.

7. As seen from the aforementioned Exhibits, the petitioner's husband M.Javid Iqbal died on 09.03.2017 as evidenced by his death certificate, which has been marked as Ex.P2. M.Javid Iqbal's mother Mrs.P.A.Nazeem Banu also died on 22.04.2017 as evidenced by her death certificate, which has been marked as Ex.P3. The birth certificate of Master J.Mohammed Iqbal, the son of the petitioner has also been marked as Ex.P4, which confirms that he was born on 15.09.2007.

8. There has been disputes amongst the petitioner, who is the second wife of the deceased M.Javid Iqbal and the first wife of M.Javid Iqbal, Nafiza Begum @ Deepthi and the suit was also filed by the first wife before this Court in C.S. No.118 of 2018, which ended in a compromise and the



compromise decree dated 10.10.2018 came to be passed in the said suit involving the family members of the petitioner as well as the family members of Nafiza Begum, the first wife of the deceased M.Javid Iqbal. As per the said compromise decree, Schedule "C" property in the suit was allotted to the petitioner and her minor son J.Mohammed Iqbal. The schedule-B property in this petition are some of the properties found in schedule-C property in the compromise decree dated 10.10.2018 passed by this Court in C.S. No.118 of 2018. The petitioner and her minor son J.Mohammed Iqbal are each having half share in the said properties. The petitioner has pleaded and also deposed through her oral evidence that the schedule-B properties are not generating any income as they are vacant lands and if they are sold, it will be beneficial for her business as well as it will be beneficial to the interest of the minor son J.Mohammed Iqbal. The petitioner is having a gas agency by name Banu Gas Agency and she has stated that she requires further investment for the said business and the sale proceeds towards her share out of the sale of the schedule-B properties will be useful. She has also undertaken that 50% sale consideration which is meant for her minor son J.Mohammed Iqbal will be utilized in his best interest and can also be kept in fixed deposit, till he attains majority.



Iqbal has also been marked as Ex.P5, which confirms that his first wife Nafiza Begum @ Deepthi, D.J.Retheck, the son born out of the first wife, Shakila Banu, the petitioner and J.Mohammed Iqbal (Son of the second wife), are his only legal heirs. The petitioner has also entered into three separate agreements of sale all dated 20.02.2021 in respect the subject properties, which form part of schedule-B property with the very same purchaser, who has agreed to purchase the respective properties. The details of the sale agreements are as follows:-

<i>Exhibits</i>	<i>Nature of the document</i>
Ex.P6	Photocopy of the Agreement for sale dated 20.02.2021.
Ex.P7	Photocopy of the Agreement for sale dated 20.02.2021.
Ex.P8	Photocopy of the Agreement for sale dated 20.02.2021.

10. As seen from the aforementioned sale agreements, the total sale consideration that will be received by the petitioner and the minor J.Mohammed Iqbal will be approximately Rs.9,30,000/- (Rupees Nine lakhs thirty thousand only) and out of the said total sale consideration, the minor's 50% share will be Rs.4,65,000/- (Rupees four lakhs sixty five thousand only). The petitioner has undertaken to keep the said amount in a



fixed deposit in the name of the minor J.Mohammed Iqbal, till he attains majority. The minor J.Mohammed Iqbal was born on 15.09.2007 as evidenced from his birth certificate, which has been marked as Ex.P4.

11. Mr.Saravanan was also examined as a witness on the side of the petitioner as P.W.2. He is the attesting witness under the agreements of sale, which have been marked as Exs.P6, P7 and P8 respectively. He has also filed a proof affidavit before this Court, in which he has stated that he was present on 20.02.2021 when the respective agreements of sale was entered into by the petitioner with the purchaser viz.,S.A.Mujeebur Rahman.

12. After recording of the evidence before the learned Master, the matter was listed for hearing before this Court on 06.01.2022. On that date, this Court directed the learned counsel for the petitioner to obtain a valuation report for the schedule-B property through an approved valuer. In compliance with the said direction, learned counsel for the petitioner has placed before this Court today a valuation report. The valuation report has been given by V.Ezhilarasan, a Government Approved Valuer and it is dated 24.01.2022. The valuation has been given for all the schedule-B properties, which is the subject matter of O.P. No.587 of 2021. As seen

from the valuation report, the agreement value as per Exs.P6, P7 and P8 is



more than the market value disclosed under the aforementioned valuation report, dated 24.01.2022. Hence, it can be inferred that the agreement value as per Exs.P6, P7 and P8 respectively is the correct value of the said properties, in which, the minor is having half share.

13. After giving due consideration to the pleadings and the evidence available on record, this Court is inclined to grant permission to the petitioner to sell the schedule-B property, which includes the half share of the minor J.Mohammed Iqbal for the total sale consideration mentioned under the sale agreements, all dated 20.02.2021 marked as Exs.P6, P7 and P8 respectively in favour of S.A.Mujeebur Rahman.

14. On receipt of the total sale consideration of Rs.9,30,000/- (Rupees Nine lakhs thirty thousand only), the petitioner shall take a fixed deposit in the name of her minor son Master.J.Mohammed Iqbal for a sum of Rs.4,65,000/- (Rupees four lakhs sixty five thousand only), being his half share and the said fixed deposit shall be taken in Indian Bank, High Court Branch, Madras for a period of one year initially and thereafter, renewed periodically. The said fixed deposit shall be deposited with the Registrar General of this Court for safe custody.



15. Accordingly, O.P. No.587 of 2021 is allowed as prayed for.

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Sd/-A.Q.J.
28.01.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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