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KRISHNAN RAMASAMY.J.,

This Original Petition is filed praying for the following reliefs:

(a) to sell the minors' share in the petition mentioned property to M/s Apex Powelec, rep. By its partners R.Thirugnanamsambantham, son of Mr.R.Ramachandran, aged about 52 years, iii) Mr.V.Vengadesan, son of Mr.Venugopal, aged about 53 years, having office at New No.42, Old No.31, North Road, West CIT Nagar, Nandanam, Chennai – 600 035.

(b) to deposit 18.75% percent of the sale proceeds of Rs.93,75,000/- of each minor or as directed by this Court in any of the nationalised bank in the name of the minor children, viz., Kanchala Srihari Sakshi & Kanchala Liyan Arjun;

c) any such or other orders

2. The case of the petitioner as culled out from the petition is as follows:-

(a) The petitioner's husband and the father of the minor children, viz., Kanchala Gopikrishnan Srihari died intestate on 08.01.2022 leaving behind the surviving legal heirs, the petitioner, [wife of the deceased], two minor children, aged 4 and 2 respectively and mother of the deceased. After the



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demise of the father of the minor children, the petitioner is the mother and natural guardian of the minor children. The petitioner's husband is entitled to 75% share and petitioner's mother-in-law is entitled to 25% share in the petition mentioned property and after death of the petitioner's husband, the 75% share in the petition mentioned property goes equally to all the four legal heirs.

(b) Further, the petitioner's husband and petitioner's mother-in-law jointly paid monthly EMI of Rs.2,43,000/- for the loan amount to the Bank of Baroda, Mylapore Branch, Chennai – 4 towards mortgage OD and RIRA OTR in A/c Nos.05270400000567 & 05270600003627 for the mortgage loan obtained jointly by them and if there is any default in payment of monthly EMI, the interest will be accumulated and thereby the petitioner is also put to great loss. Further, one of the minor child is studying in UKG and the other child is aged 2 years, hence for the welfare of the children, considerable amount is necessary. In order to meet the expenses towards maintenance of minors and to repay the monthly EMI Amount, the legal heirs, petitioner and her mother-in-law (wife and mother of the deceased) decided to sell the petition mentioned property. Since the interest of the minor children are involved, the petitioner has filed this petition seeking



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permission to sell the share of the minor children, through the petitioner and her mother-in-law and each of the minors have 18.75% undivided share in the property.

(c) Also, M/s Apex Powelec, rep by its Partners, R.Thirugnanamsambantham, son of R.Ramanujam, Mr.R.Annadurai, son of Mr.R.Ramachandran and Mr.V.Vengadesan, son of Mr.Venugopal having office at New No.42, Old No.31, North Road, West CIT Nagar, Chennai offered to purchase the petition schedule mentioned property for a total sale consideration of Rs.5,00,00,000/- and the offer is fair and reasonable and it is equal to the market value prevailing at present in the area. The proposed sale of the petition mentioned property is a legal necessity for the welfare of the minor children and the minor children will not be put to any loss on account of selling the petition mentioned property and investing certain percent of sale proceeds and remaining amount will be spent on minors education and to clear other debts, thereby seeks to allow the present petition.

3. In order to prove her case, the petitioner was examined as P.W.1 and marked Exs.P-1 to P-22. Ex.P1 is the photocopy of the Aadhar card of



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the petitioner. Ex.P.2 is the computer generated birth certificate of Kanchala Srihari Sakshi. Ex.P.3 is the computer generated birth certificate of Kanchala Liya Arjun. Ex.P.4 is the photocopy of Aadhar card of proposed purchaser, namely R.Thirugnanamsambantham. Ex.P.5 is the photocopy of Aadhar card of proposed purchaser, namely, Annadurai Ramachadran. Ex.P.6 is the photocopy of Aadhar card of proposed purchaser, namely, V.Vengadesan. Ex.P.7, is the photocopy of the death certificate of Kanchala Gopi Krishnan Srihari. Ex.P.8 is the computer generated legal heir certificate dated 05.04.2002 in respect of Kanchala Gopi Krishnan Srihari. Ex.P.9 is the certified copy of sale deed dated 30.06.2004. Ex.P.10 is the certified copy of another sale deed dated 30.06.2004. Ex.P.11 is the certified copy of sale deed dated 16.09.2004. Ex.p.12 is the certified copy of the sale deed dated 15.12.2004. Ex.P.13 is the certified copy of settlement deed dated 11.03.2010. Ex.P.14 is the certified copy of another settlement deed dated 19.03.2010. Ex.P.15 is the certified copy of settlement deed dated 12.04.2010. Ex.P.16 is the photocopy of Agreement for sale dated 20.05.2022. Ex.P.17 is the computer generated Encumbrance Certificate dated 14.07.2017. Ex.P.18 is the computer generated print out of property tax receipt dated 06.04.2022. Ex.P.19 is the computer generated guideline value of the



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property. Ex.P.20 is the photocopy of Memorandum of Deposit of Title deed dated 16.04.2018. Ex.P.21 is the photocopy of Memorandum of Cancellation receipt dated 25.05.2022. Ex.P.22 is the photocopy of patta standing in the name of K.G.Srihari.

4. In order to ascertain the value of the petition mentioned property, [which is mentioned as Rs.5 Crores in the petition], the learned counsel for the petitioner has produced a document showing the guideline value of the said property, however, this Court is of the view that the prevailing market value as on date could not be ascertained by taking into consideration the guideline value and therefore, this Court is not inclined to peruse the said document.

5. Considering the oral and documentary evidence and the materials placed on record and submissions made on behalf of the petitioner that 18.75% of the sale proceeds would be deposited in the name of the each of the minor children and the remaining portion of the sale proceeds would be utilised for paying debts and mother and grand mother of the minor children are taking steps to sell the property, this Court does not want to attribute any malafides against them, further, this Court is also satisfied



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that the petitioner is entitled to succeed in this Original Petition.

Accordingly, this Original Petition is ordered in the following terms:

(i) The petitioner is hereby appointed as Guardian of the persons and property of the minor children, namely, Ms.Kanchala Srihari Sakshi and Master. Kanchala Liyan Arjun.

(iii) The petitioner is permitted to sell away the undivided share of minor children, namely, Ms.Kanchala Srihari Sakshi and Master. Kanchala Liyan Arjun, which is described in the petition schedule to R.Thirugnanamsambantham, son of R.Ramanujam, Mr.R.Annadurai, son of Mr.R.Ramachandran and Mr.V.Vengadesan, son of Mr.Venugopal having office at New No.42, Old No.31, North Road, West CIT Nagar, Chennai or to any other buyer. After such sale, the petitioner is directed to deposit 18.75% of the sale proceeds not less than Rs.93,75,000/- of each minor share, in any one of the Nationalised Bank in a fixed deposit in the name of the each minor children separately and to withdraw the interest of the amount accrued thereon once in every three months and use the same for the welfare of the minor children.



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(iv) The petitioner is also directed to execute a security bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) in favour of the Assistant Registrar (O.S.-II), High Court, Madras.

02.08.2022

ssd



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