



O.P.No.562 of 2022

C.V.KARTHIKEYAN, J.,

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The Original Petition has been filed under Section 8(2) of the Hindu Minority and Guardianship Act, 1956, seeking permission to sell the share of the minor's property in the properties described in schedule 'A' and Schedule 'B' to the petition.

2. It is the contention of the learned counsel for the petitioner Ms.AL.Ganthimathi, that the husband of the petitioner herein, Muthiah Annamalai, was running several businesses in the name and style of M/s.Muthu Agencies and M/s.Annamalai Chettiyar and Company and also other businesses. Towards running of the businesses, to increase capital, the properties described in 'A' Schedule had been mortgaged with the Bank namely, the ICICI Bank.

3. The husband of the petitioner Muthiah Annamalai died on 31.08.2021. The Bank loans will have to be settled and the debts to other unsecured creditors also have to be settled.

4. The petitioner had stated in the petition that she wanted to sell the properties in 'A' Schedule which have already been mortgaged with the ICICI Bank and also the 'B' Schedule properties over which, her husband of the petitioner has a share.



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5. The petitioner has three children. The first two daughters have attained the age of majority but the 3rd son namely, M.Annamalai is a minor. He was born on 06.06.2007.

6. It is represented by the learned counsel that the sale of the properties are absolutely necessary to ensure that the properties are not brought to sale by the bank and it is hoped that if the properties are sold, then, the debts would not remain on the shoulders of the children particularly, the minor son.

7. It is also stated that the creditor Bank had issued notices stating that they would initiate proceedings for recovery of debts due under the provisions of the SARFAESI Act. Therefore, left with no other alternative, the present petition has been filed.

8. The petitioner was directed to tender evidence. The petitioner examined herself as P.W.1. The Birth Certificate of the minor son M.Annamalai was marked as Ex.P1, the Title Deeds of the various properties mentioned in the schedule to the petition were marked as Exs.P2 to P9. The Death Certificate of her husband Muthiah Annamalai was marked as Ex.P10 and the Legal Heirship Certificate was marked as Ex.P11. The Demand Notices under the SARFAESI Act issued by the ICICI Bank were marked as Exs.P12 and P13.



9. It had also been noted by the learned Master while marking exhibits that the originals of the exhibits P2 to P9 are with the Bank consequent to the mortgage created.

10. A perusal of Exs.P12 and P13 reflect that the Bank had also issued notices to the minor son informing about the proposed auction to recover the money. Ex.P12 shows that the principle amount due is Rs.11,76,28,956.84/- and the interest on the said amount is Rs.14,96,179/- and the total amount due is Rs.11,91,26,135,84/-.

11. It is thus seen that there is necessity to sell the property including the share of the minor to clear the loan which is increasing day by day. However, a little more prudence can be exhibited and the petitioner may therefore take up the advantage of this order to deal with item No.1 and item No.2 properties given in schedule 'A' namely the house and land at Old Door No.15, New Door No.44, Anderson Street, George Town, Chennai 600 001 and the house and land at Door No.19/1, (Part of old No.16) Big Street alias Veeraragha Mudali Street, Triplicane, Chennai 600 005 in the first instance.

12. Let those two properties be sold and thereafter, let a disclosure be made by the Court regarding the sale proceeds received and whether the Bank in the first place and the other unsecured creditors have been settled. The petitioner may also negotiate with the secured and unsecured



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creditors for reasonable settlement of the dues. If the sale proceeds are not sufficient then, the petitioners are at liberty to file necessary application to extend this order to also include sale of any other property as described in the schedule to the petition.

13. I am confident that the learned counsel for the petitioner would advise caution and prudence to the petitioner in the matter of sale of the properties and also to examine the possibility of retaining some of the properties if it is possible.

14. Though the Original Petition stands allowed, still permission is granted to file necessary application if required and if necessity arises.

16.11.2022

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