



O.P.No.728 of 2021

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KRISHNAN RAMASAMY.J.

This petition has been filed under Sections 3, 7 to 10 and 29 of Guardians and Wards Act, 1890 and under Order XXI Rules 2 and 3 of O.S. Rules, praying for the following reliefs:

a) to appoint the petitioner as guardian of the person and property of the minors viz., (1) Mohamed Irfan and (2) Fathima Firdhose;

b) to grant permission to sell out the property to the prospective purchaser Mr.Babilal, S/o Ansari (PAN CDUPB9286J) with respect to the property situated in Kancheepuram District, Sriperumbudur Taluk, Village No.68, Mangadu Village, comprised in Survey No.333/2, by Patta No.207 S.No.333/2A, by new Patta No.3470 Survey No.333/2A6 for the extent of 1207 ½ and 200 square feet.

c) to grant permission to deposit the share of the minor children share out of the total sale consideration into the credit of the above mentioned petition.

d) to grant permission to withdraw the interest amount periodically that accumulates over the deposited amount into the credit of the above mentioned petition.



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

(a) Mohamed Irfan, a minor of age 10 years, is the son and Fathima Firdhose, a minor of age 4 years, is the daughter of the petitioners herein and ordinarily residing at Door No.2/4, 1st Floor, M.S.R. Flat, Bashyam, 1st Street, Otteri, Chennai – 600 012. The first petitioner/mother has filed this petition seeking permission from this Court to sell/alienate the Schedule mentioned property in respect of minors' share.

(b) The first and second petitioners were the wife and husband respectively and they got separated one year back. According to the first petitioner/mother, she and her minor children are in absolute possession and peaceful enjoyment of the schedule mentioned property. Since the first petitioner and her children are being left alone without any savings, she could not run her family and raise her children. The first petitioner/mother is being found burdensome and laborious to provide her minor children, better nutritious food and appropriate convenient education.

(c) According to the first petitioner/mother, no guardian of the person or of



the property has been appointed by any person and also, no application has been made to this or any other Court. She further states that she is mother and the only person who would take personal interest and care of the minors and she is the person who is providing education and looking after the minors' welfare. She further states that being a mother of the minors, she is a fit and proper person to be appointed as guardian of the person and property of the said minors.

(d) Furthermore, she states that she is the only breadwinner of the family and has to meet out the maintenance, education and other expenses of the minors. In such circumstances, in order to meet the expenses, the first petitioner intends to sell the minors' property and undertakes to deposit the sale consideration to her minor children from the prospective purchaser and to utilize the accrued interest there on. In this regard, she also found out a prospective purchaser namely Mr.Babilal, who has agreed to purchase the schedule property. Therefore, the first petitioner/mother seeks to grant permission to appoint her as the guardian of person and property and to sell out the property to the prospective purchaser and deposit the sale consideration of minors' share into the credit of this petition and to withdraw the interest amount periodically. With regard to the same, the second petitioner/father has no objection and he has also



given his consent affidavit.

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3. In order to prove her case, the first petitioner was examined as P.W.1 and marked Exs.P1 to P8. Ex.P1 is the photocopy of the birth certificate of A.Mohamed Irfan, who was born on 11.10.2010. Ex.P2 is the photocopy of the birth certificate of Fathima Firdhose, who was born on 02.03.2016. Ex.P3 is the photocopy of the Settlement Deed dated 09.12.2016. Ex.P4 is the photocopy of the Aadhaar card bearing No.343282458887 of the first petitioner. Ex.P5 is the photocopy of the Aadhaar card of A.Mohamed Irfan, bearing No.863981825113. Ex.P6 is the photocopy of the Aadhaar card of Fathima Firdhose, bearing No.540944794004. Ex.P7 is the photocopy of the unregistered Sale Agreement dated 04.09.2020. Ex.P8 is the first petitioner's declaration of willingness. The first petitioner has also filed the valuation report which shows the market value of the land of the schedule property as Rs.22,52,000/-.

4. Considering the oral and documentary evidence and the materials placed on record, this Court is satisfied that the first petitioner is entitled to succeed in this Original Petition. Accordingly, this Original Petition is allowed in the following terms:

(i) The first petitioner is hereby appointed as Guardian of the person and



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property of the minors, Mohamed Irfan and Fathima Firdhose;

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(ii) The first petitioner is permitted to sell out the property to the prospective purchaser namely Mr.Babilal and after such sale, the first petitioner is directed to deposit the sale proceeds in any one of the Nationalised Bank in a fixed deposit in the name of the minors and to withdraw the interest of the amount accrued thereon once in every three months and use the same for the welfare of the minors;

(iii) The first 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.

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