



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 31ST DAY OF JANUARY 2022

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

O.P. No.679 of 2021

In the matter of Hindu Minority &
Guardianship Act, 1956 and in the
Matter of Minor M.Vaishnavi.

M.Deepa,
Wife of K.Mohankumar,
No.114/233, Thambu Chetty Street,
Mannady, Chennai 600 001.

... Petitioner

Original Petition praying that this Hon'ble Court be pleased to grant leave and permission to the Petitioner to sell or execute the settlement deed the schedule lands of minor M.Vaishnavi for a sum of Rs.18,75,000/- (Rupees Eighteen Lacs and Seventy Five Thousand Only) by way of Registered Sale Deed or Settlement Deed in favour of the said K.Saraswathi and the sale proceeds share of the said M.Vaishnavi Rs.18,75,000/- (Rupees Eighteen Lacs and Seventy Five Thousand Only) may be permitted to be deposited in any nationalised bank in the name of Minor M.Vaishnavi.

This Original Petition coming on this day before this Court for hearing in the presence of Mr.S.Janarthanam, Advocate for the petitioner



and the other exhibit 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 minor M.Vaishnavi's share in the property morefully setout in the schedule hereunder, for a sale consideration at Rs.18,75,000/-(Rupees Eighteen Lakhs Seventy Five Thousand only) to K.Saraswathi, as per the Agreement of Sale dated 14.09.2021.

2. That on receipt of the aforesaid sale consideration of Rs.18,75,000/- (Rupees Eighteen Lakhs Seventy Five Thousand only), the petitioner herein, shall take a Fixed Deposit for the said sum in the name of the minor M.Vaishnavi in Indian Bank, Madras High Court Branch, Chennai and handover the same to the Registrar General of this court, who shall keep the same in safe custody, until further orders of this court.

3. That the petitioner herein, shall initially take the Fixed Deposit for a period of six months and she shall renew the same periodically for a further period, until further orders of this court.

SCHEDULE

Sl.No.	Description of Property	Approximate Value	Persons in Possession of the Proeprty
1	Property measuring an extent of 2622 Sq.ft. and comprised in Old S.No.992, R.S.No.4785,	Rs.18,75,000/-	Petitioner and the Minor M.Vaishnavi and M.Abirami



Sl.No.	Description of Property	Approximate Value	Persons in Possession of the Property
	Block No.43, V.O.C.Nagar Village, together with a Building measuring an extent of 3500 sq.ft on the Ground Floor, First Floor and Second Floor and situate at No.114/233, Thambu Chetty Street, Mannady, Chennai 600 001.		

WITNESS THE HON'BLE MR.JUSTICE MUNISHWAR NATH BHANDARI, ACTING CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 31st 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.)

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08.02.2022

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O.P. No.679 of 2021

ORDER

DATED: 31.01.2022

THE HON'BLE MR. JUSTICE

ABDUL QUDDHOSE

FOR APPROVAL: 08.02.2022

APPROVED ON: 08.02.2022

Copy to:-

1. The Registrar General,
High Court, Madras.
2. Correspondence Seat.



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This Application coming on this day before this court for hearing **the court made the following order:-**



and Guardianship Act, 1956 read with Order XXI Rule 2 and 3 of the Original Side Rules, seeking permission of this Court to sell the minor M.Vaishnavi's share in the petition schedule property.

2. According to the petitioner, the petition schedule property was originally owned by J.Kannappan and after his death on 28.06.1987, his wife, viz., K.Saraswathi and his three sons viz., K.Balasubramaniam, K.Magesh and K.Mohankumar, who are his only legal heirs, became the absolute owners of the petition schedule property.

3. The petitioner is the wife of K.Mohankumar, the son of J.Kannappan. K.Mohankumar died on 08.03.2021 leaving behind the petitioner, his two daughters, viz., M.Abirami and M.Vaishnavi and his mother K.Saraswathi, as his only legal heirs. M.Vaishnavi is a minor.

4. The petitioner, who is the mother of M.Abirami and M.Vaishnavi and the wife of late K.Mohankumar, has now entered into an Agreement of Sale of their share in the petition schedule property on 14.09.2021 with K.Saraswathi, who is the mother-in-law of the petitioner

and the mother of the deceased K.Mohankumar. Under the Agreement of



Sale dated 14.09.2021, the petitioner and her children have agreed to sell their share in the petition schedule property to K.Saraswathi for a total sale consideration of Rs.75,00,000/- (Rupees Seventy Five Lakhs Only) and the minor, M.Vaishnavi's share out of the same will be Rs.18,75,000/- (Rupees Eighteen Lakhs Seventy Five Thousand Only). The petitioner and her minor children, M.Abirami and M.Vaishnavi and K.Saraswathi, the mother of the deceased K.Mohankumar, became entitled to 1/4th undivided share in the petition schedule property, subsequent to the death of K.Mohankumar. M.Abirami, the daughter of the petitioner is a major and the petitioner is seeking permission of this Court to sell the share of M.Vaishnavi, who is the minor.

5. Before the learned Master, the petitioner M.Deepa 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.679 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 petitioner's Aadhaar Card bearing No.7736 4111 2966.
Ex.P2	Computer generated birth certificate of minor M.Vaishnavi, who born on 08.09.2004.
Ex.P3	Photocopy of the Aadhaar card of minor M.Vaishnavi,



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<i>Exhibits</i>	<i>Nature of the document</i>
	bearing No.2014 6963 6564.
Ex.P4	Computer generated death certificate of K.Mohankumar, who died on 08.03.2021.
Ex.P5	Computer generated Legal Heirship certificate dated 04.08.2021 in respect of K.Mohankumar.
Ex.P6	Photocopy of the Identity Card of minor M.Vaishnavi given by St.Columbans AI HS, Chennai.
Ex.P7	Photocopy of the death certificate of J.Kannappan, who died on 28.06.1987.
Ex.P8	Photocopy of the Legal Heirship certificate dted 27.07.2001 in respective of J.Kannappan.
Ex.P9	Original Agreement of Sale dated 14.09.2021 in favour of K.Saraswathi.
Ex.P10	Copy of paper publication effected in one issue of English daily viz., "The New Indian Express" dated 16.11.2021.
Ex.P11	Petitioner's declaration of willingness to accept the office of the guardian of the person and property of minor M.Vaishnavi.

6. As seen from the evidence available on record, the petition schedule property was originally owned by J.Kannappan, he having purchased the same under a Sale Deed dated 27.04.1977. A xerox copy of the Sale Deed has been filed along with the petition filed in support of O.P. No.679 of 2021. J.Kannappan died on 28.06.1987, as evidenced from his death certificate, which has been marked as Ex.P7. J.Kannappan died leaving behind K.Saraswathi, his wife and his three sons viz., K. Balasubramaniam, K.Magesh and K.Mohankumar, as his only legal heirs, as evidenced from his legal heirship certificate dated 27.07.2001, which has



been marked as Ex.P8.

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7. The petitioner, viz., M.Deepa, is the wife of K.Mohankumar. K.Mohankumar died on 08.03.2021, as evidenced by his death certificate, which has been marked as Ex.P4. He died leaving behind the petitioner, his wife, two children viz., M.Abirami and M.Vaishnavi and his mother, K.Saraswathi, as his only legal heirs, as evidenced from his legal heirship certificate dated 04.08.2021, which has been marked as Ex.P5.

8. M.Vaishnavi, the daughter of late K.Mohankumar as well as the petitioner, is a minor. In the petition filed in support of O.P. No.679 of 2021, the petitioner has pleaded that a necessity has arisen to sell the share of the petitioner and her daughters in the petition schedule property.

9. According to the petitioner, after the death of her husband, K.Mohankumar, she has been finding it very difficult to eke out her livelihood and therefore, the petitioner and her children have decided to sell the petition schedule property. K.Saraswathi, the mother-in-law of the petitioner has agreed to purchase the same for a total consideration of Rs.75,00,000/- (Rupees Seventy Five Lakhs only). An Agreement of Sale



daughters and K.Saraswathi. As per the said Agreement, K.Saraswathi has agreed to purchase the share of the petitioner and her two daughters in the petition schedule property for a total consideration of Rs.75,00,000/- (Rupees Seventy Five Lakhs only). M.Vaishnavi, the daughter of the petitioner is aged 17 years and is a minor. As per her entitlement, she is entitled to Rs.18,75,000/- (Rupees Eighteen Lakhs and Seventy Five Thousand only) out of the sale consideration.

10. The petitioner has also effected paper publication in one issue of English Daily, viz., “The New Indian Express” dated 16.11.2021, which has been marked as Ex.P10 with regard to the prayer sought for in O.P.No.679 of 2021. Ex.P11 is the declaration of willingness submitted by the petitioner accepting her willingness for being appointed as a legal guardian for the minor, M.Vaishnavi and her property.

11. This Court, by its earlier order dated 17.12.2021, directed the learned counsel for the petitioner to obtain a valuation for the petition schedule property for this Court to satisfy itself with the sale price mentioned in the Agreement of Sale dated 14.09.2021, which has been marked as Ex.P9. As directed by this Court, the petitioner has submitted a



Property Valuer, having their Office at No.8/2, “Lakshmi Illam” Pudu Street, Thadhankuppam, Villivakkam, Chennai – 600 049. As per the said valuation report, the valuer has assessed the fair market value of the petition schedule property at Rs.3,05,38,000/- (Rupees Three Crores Five Lakhs Thirty Eight Thousand Only) and the Forced Sale Value (80%) at Rs.2,59,57,000/- (Rupees Two Crores Fifty Nine Lakhs Fifty Seven Thousand Only). The Agreement value mentioned under the Agreement of Sale dated 14.09.2021, between the petitioner and her daughters and the purchaser, K.Saraswathi, is Rs.75,00,000/- (Rupees Seventy Five Lakhs Only), in respect of the 1/4th share in the land measuring an extent of 2622 Sq.ft, comprised in Old S.No.992, R.S.No.4785, Block No.43, V.O.C.Nagar Village together with a building, measuring an extent of 3500 Sq.ft on the ground floor, first floor and second floor, situated at No.114/233, Thambu Chetty Street, Mannady, Chennai – 600 001, morefully described in the petition schedule property, which has been marked as Ex.P9. Therefore, if the value of the 1/4th is Rs.75,00,000/- (Rupees Seventy Five Lakhs Only), the total value will be Rs.3,00,00,000/- (Rupees Three Crores Only). The Valuer, under the Valuation Report, referred to supra, has submitted two values, one on Fair Market Value basis and the other on Forced Sale Value basis. He has valued at Rs.3,05,38,000/- (Rupees Three Crores Five Lakhs



Rs.2,59,57,000/- (Rupees Two Crores Fifty Nine Lakhs Fifty Seven Thousand Only) on the Forced Sale Value (80%) basis.

12. The present sale, as seen from the pleadings as well as the evidence available on record, makes it clear that only under forced circumstances, the petitioner and her two children are selling their shares in the petition schedule property to K.Saraswathi, who is none else than the mother-in-law of the petitioner for a sale consideration of Rs.75,00,000/- (Rupees Seventy Five Lakhs Only), which is towards their 1/4th share.

13. Since the sale price of Rs.75,00,000/- (Rupees Seventy Five Lakhs Only) mentioned in the Sale Agreement dated 14.09.2021, which has been marked as Ex.P9, is a fair price, this Court is inclined to grant the relief sought for in this petition i.e., to grant permission for sale of the minor's share in the petition schedule property. The minor, M.Vaishnavi will be getting Rs.18,75,000/- (Rupees Eighteen Lakhs Seventy Five Thousand Only) under the Agreement of Sale dated 14.09.2021, which has been marked as Ex.P9.

14. Admittedly, the petitioner's husband is dead and the minor

M.Vaishnavi is aged 17 years and is yet to settle in life. In such



circumstances, as pleaded in the petition filed in support of O.P. No.679 of 2021 and as seen from the deposition of the petitioner, the minor M.Vaishnavi requires sufficient money for her education and other urgent needs. The petitioner has also pleaded and deposed that ever since her husband K.Mohankumar's death, she and her family have been finding it very difficult to eke out their livelihood. Being satisfied with the sale price and being satisfied with the necessity for the petitioner to sell the minor's share, this Court is inclined to grant permission as sought for in this petition.

15. As seen from the evidence available on record, the sale of the minor M.Vaishnavi's share in the petition schedule property is only in her beneficial interest and welfare. However, once the sale price is received, the minor's share will have to be kept in a Fixed Deposit in her name till she attains majority.

16. In the result, this Court permits the petitioner to sell the minor M.Vaishnavi's share in the petition schedule property for a sale consideration at Rs.18,75,000/- (Rupees Eighteen Lakhs Seventy Five Thousand Only) to K.Saraswathi, as per the Agreement of Sale dated



Rs.18,75,000/- (Rupees Eighteen Lakhs Seventy Five Thousand Only), the

petitioner shall take a Fixed Deposit for the said sum in the name of the minor M.Vaishnavi in Indian Bank, Madras High Court Branch, Chennai and handover the same to the Registrar General of this Court, who shall keep the same in safe custody, until further orders of this Court. The petitioner shall initially take the Fixed Deposit for a period of six months and she shall renew the same periodically for a further period, until further orders of this Court.

17. Accordingly, O.P. No.679 of 2021 is allowed as prayed for.

Sd./-A.Q.J.
31.01.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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