



O.P.No.89 of 2021

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WEB CO **KRISHNAN RAMASAMY.J.,**

This Original Petition is filed praying for the following reliefs:

(i) to appoint the petitioner as the guardian of the person and property of the minor Viz., S.Mohammed Salman Bashith.

(ii) grant permission to the petitioner to sell the undivided 1/3rd share of his minor son namely S.Mohammed Salman Bashith in the property bearing Door No.2C/1 and 2C/2 New Door No.22 and 23, Sowrastra Nagar, 4th Street, Choolaimedu, Chennai – 94 morefully described in the Schedule hereunder and direct him to deposit the value of the 1/3rd share of his minor son i.e., 36,17,300/- in any one of the Nationalised Bank till he attains the age of majority.

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

(a) The petition schedule property was originally belonging to the father-in-law of the petitioner and maternal grand father of the minor child, namely, M.E.Muthaleef, settled the same to the petitioner's two sons and one



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daughter, namely, S.Mohammed Haris, Miss S.Ayisha Siddika and minor S.Mohammed Salman Bashith by way of a registered settlement deed dated 21.3.2011. According to the petitioner, the superstructure standing on the schedule property is a tiled house and it is very old and collapsed during rain. Since it is not fetching any rental income, the co-owners have decided to sell their 2/3rd share undivided share in the property to meet out their marriage and other expenses. The petitioner also finds it difficult to meet out the educational and other expenses of the minor son and there is no support from his close relatives. Therefore, in these facts and circumstances and in the best interest of the minor child, the petitioner, finding no other alternative, intended to sell the property along with other co-owners. In this regard, the petitioner found prospective purchasers, who came forward to buy the property for a total sale price of Rs.1,08,52,000/- and he also entered into agreement of sale with them. Therefore, the petitioner seeks to grant permission to appoint/declare her as the guardian of person and property to sell away the undivided share of the minor and deposit the sale consideration of minor's share in a fixed deposit.



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3. In order to prove his case, the petitioner was examined as P.W.1 and marked Exs.P-1 to P-6. Ex.P1 is the photocopy of the Release Deed dated 14.07.1993, Ex.P2 is the photocopy of the Settlement Deed dated 21.03.2011, registered as Doc.No.962 of 2011 at SRO, Kodambakkam, Ex.P3 is the Computer generated birth Certificate of minor child, S.Mohammed Salam Bashith, who was borth on 11.12.2005, Ex.P4 is the photocopy of the Agreement of Sale dated 04.11.2020, Ex.P5 is the Online Gudeline value in respect of the petition schedule property, Ex.P6 is the Declaration of Willingness to accept the Office of the guardianship of the person and property in respect of the petitioner's minor son.

4. Considering the oral and documentary evidence and the materials placed on record, this Court is satisfied 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 person and property of the minor S.Mohammed Salman Bashith;

(iii) The petitioner is permitted to sell away the undivided share of



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minor S.Mohammed Salman Bashith, which is described in the petition schedule. After such sale, the petitioner is directed to deposit the sale proceeds in any one of the Nationalised Banks in a fixed deposit in the name of the minor 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.

(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.

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