



WEB COPY



O.P.No.87 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20.04.2023**

CORAM

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**
O.P.No.87 of 2023

N.Rathika

... Petitioner

PRAYER: Original Petition filed for permission under Section 8(2) of Hindu Minority and Guardianship Act, 1956 read with Order XXI Rule 2 & 3 of Original Side Rules and Clause 17 of Letter Patent Act praying for:

(a)The petitioner may be permitted to execute a sale deed for the share of the minors specified in the schedule herein.

(b)That the petitioner may be permitted to deposit the sale proceeds in the name of the minors with any nationalized bank.

(c)The petitioner may be permitted to withdraw the interest from the above deposit which the petitioner undertakes to spend for the betterment of the minors.

For Petitioner : Ms.K.R.Gayathri

ORDER



O.P.No.87 of 2023

By this petition, the mother and natural guardian of the minor children namely, N.Monishkumar and N.Jayakumar, seeks permission to sell the minors property described in the schedule to the petition.

2. The petitioner asserts that the above mentioned minor children are the joint owners and are in the possession of the property comprised in S.No.451/1A in Kundrathur Village, Pallavaram Taluk, Kanchipuram District, of 5 cents each totally measuring to 10 cents, the same was acquired by the minors by way of a written family arrangement after the demise of the minors father. The husband of the petitioner namely, R.Nandhan died on 14.02.2016. The petitioner further states that the land mentioned above is not fit for agriculture purpose and has become unprofitable and the said piece of land is fetching a good market value in the area and in the interest of the minor children the petitioner wants to sell the property. The amount out of the sale will be for the better education of the children and repair of the house of the minors. Petitioner also states that the sale consideration will be kept as Fixed Deposit in any of the nationalized banks.

3. In order to establish entitlement to the relief claimed, the petitioner



O.P.No.87 of 2023

adduced evidence by examining herself as P.W.1. In course of the examination in chief of P.W.1, 7 documents listed at the foot of this order were exhibited as Exs.P1 to P7. The death certificate of the petitioner's husband (Ex.P4) discloses that he died on 14.02.2016. The legal heirship certificate in respect of her husband (Ex.P3) discloses the names of the petitioner and their minor sons as the Class-I legal heirs of the deceased. The birth certificates of the minor son N.Monishkumar (Ex.P1) discloses that he was born on 15.10.2009, and N.Jayakumar (Ex.P2) discloses that he was born on 13.08.2011. As evidence of title of the minor children to the relevant immovable asset, the registered Family Partition dated 18.08.2016 (Ex.P5) is placed on record. The petitioner has provided the valuation report of the property (Ex.P7).

4. Based on the evidence adduced by the petitioner, the petitioner is entitled to the relief claimed on the following terms:

(i) the petitioner is permitted to execute a sale deed for the shares of the minor children in the property described in the schedule to the petition, subject to the condition that the sale proceeds shall be remitted into an interest bearing fixed deposit in name of the respective minor in a nationalized bank. It is



WEB COPY



O.P.No.87 of 2023

clarified that separate fixed deposit accounts shall be opened for each minor. Such fixed deposit shall be kept renewed until the respective minor attains the age of majority.

(ii) After completing the aforesaid, the petitioner shall provide the fixed deposit receipt before the Assistant Registrar (Original Side-II) of this Court along with the accounts.

20.04.2023

gba

Index :Yes/No

Speaking: Yes/ No

Neutral Citation: Yes/ No

Petitioner's witness:

P.W.1 - Mrs.N.Rathika

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Computer generated birth certificate of my minor son U.Monesh Kumar
Ex.P2	Photocopy of birth certificate of my minor son Jayakumar
Ex.P3	Photocopy of the legal heirship certificate of petitioner's husband Thiru.Nandhan
Ex.P4	Photocopy of death certificate of petitioner's husband R.Nandhan
Ex.P5	Photocopy of registered family partition arrangement deed dated 18.08.2016
Ex.P6	Photocopy of the valuation report of the property dated 05.01.2023
Ex.P7	Photocopy of petitioner's Aadhar card



WEB COPY gba



O.P.No.87 of 2023

20.04.2023

K.KUMARESH BABU,J.

gba

O.P.No.87 of 2023

20.04.2023