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O.P.No.226 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2023

CORAM:
THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 226 of 2023

S.Omsakthi	...	Petitioner
	Vs.	
K.Rajakumari	...	Respondent

Original Petition is filed under Section 8(2)(b) of the Hindu Minority and Guardianship Act, 1956, read with Order XXI Rule 2 & 3 of the Madras High Court Original Side Rules praying to:

(a) Grant permission to sell the schedule mentioned property i.e., minor undivided share in respect of the schedule mentioned property;

(b) Grant permission to deposit a sum of Rs.1,33,856/- (Rupees One lakh Thirty Three thousand Eight Hundred and Fifty Six Only) towards the share of the minor son S.Vigneshwaran bearing Account No.35619819543, State Bank of India Bank, Purasaiwalkam Branch and a sum of Rs.1,33,856/- (Rupees One Lakh Thirty Three Thousand Eight Hundred and Fifty Six Only) towards the share of the minor daughter S.Harini bearing Account No.35619819713, State Bank of India, Purasaiwalkam Branch till



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they attain majority into the credit of the above mentioned petition.

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For Petitioner : Mr.M/S.Rolph V Manohar

For Respondent : Mr. Hindhumathi

ORDER

This Original Petition has been filed under Section 8(2) of the Hindu Minority and Guardianship Act, 1956 read with Order XXI Rule 2 & 3 of the Madras High Court Original Side Rules, seeking permission to sell the minor's property in the schedule i.e., minor undivided share in respect of the schedule mentioned property;

(b) Grant permission to deposit a sum of Rs.1,33,856/- (Rupees One lakh Thirty Three thousand Eight Hundred and Fifty Six Only) towards the share of the minor son S.Vigneshwaran bearing Account No.35619819543, State Bank of India Bank, Purasaiwalkam Branch and a sum of Rs.1,33,856/- (Rupees One Lakh Thirty Three Thousand Eight Hundred and Fifty Six Only) towards the share of the minor daughter S.Harini bearing Account No.35619819713, State Bank of India, Purasaiwalkam Branch till they attain majority into the credit of the above mentioned petition.

2.The petition mentioned property originally belonged to the husband of the petitioner, K. Srinivasan, by virtue of a sale deed dated 12.12.2008.

The said Srinivasan was working as a contract employee at a TASMACH



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shop and he died on 07.01.2016. Since Srinivasan died intestate, his wife, who is the petitioner herein, and his two minor children namely S. Vigneshwaran and S. Harini, along with his mother, who is the respondent herein, had inherited the petition mentioned property equally. After the demise of Srinivasan, the petitioner is left with no source of income, and she has secured a job as Xerox operator in a private shop. Since the income earned by the petitioner is not sufficient to meet the educational expenses and all other expenses of the minor children, with the consent of the respondent, the petitioner proposed to sell away the petition mentioned property and invest the sale proceeds in a better manner. Since the minors' total 1/2 share is also involved, this petition has been filed seeking permission to sell the minors' share also.

3. The petitioner examined herself as PW.1 and marked Ex.P1 to Ex.P11.

4. From the death certificate of Srinivasan which is marked as Ex.P4, it is seen that Srinivasan died on 07.01.2016. From the legal heir certificate produced as Ex.P5, it is seen that the petitioner and her two minor children and the respondent are the legal heirs of late Srinivasan. The petitioner has also fixed a prospective buyer with whom she had entered into a sale agreement during November-2022 and a copy of the sale agreement is



marked as Ex.P10. The valuation of the property has been given by the Engineer and the Engineer's report is marked as Ex.P11. As per the Engineer's report the value of the suit property is Rs.5,53,187/-. However, the petitioner could only find a buyer for a little lower for sale price at Rs.5,35,425/- The petitioner has undertaken to deposit the minors' $\frac{1}{2}$ share of the sale proceeds in a Fixed Deposit until the minor children become major. The respondent who was examined as R.W.1 has also given her consent and stated that the petition mentioned property has to be sold in view of her family situation.

5. Since the petitioner being the mother and the minor children are under her custody, the mother has to take decisions as to the management of the property for herself and on behalf of the minors. Taking into consideration of the family circumstances of the petitioner and her undertaking that $\frac{1}{2}$ share of the minors' will be deposited in the Nationalized Bank until they become major, I feel that the permission should be granted.

6. Accordingly, this Original Petition is allowed on the following terms:

- i) The petitioner is permitted to sell the minors' property described in the schedule.
- ii) Such permission is subject to the condition that $\frac{1}{2}$ of the sale



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proceeds of the petition mentioned property should be deposited in a fixed deposit account established in a nationalized bank in the name of the minors. Such fixed deposit shall be until the minors attain the age of majority.

iii) Upon complying with the above directions, an affidavit of compliance shall be filed in the Registry

iv) The minors are granted leave to apply for release of the fixed deposit upon attaining their age of majority.

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jrs

Internet :Yes/No

Speaking: Non speaking

Neutral:Yes/ No



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APPENDIX

Petitioner's witness:

P.W.1 – S.Omsakthi

Respondent's witness:

RW.1 - K.Rajakumari

Documents exhibited by the petitioner:

<i>Exhibits</i>	<i>Documents</i>
P1	The certified copy of sale deed dated 12.06.2008 executed in favour of K.Srinivasan. (compared with the original)
P2	The original birth certificate of the petitioner's minor son Mr.Vigneshwaran
P3	The original birth certificate of the petitioner's minor daughter Ms.Harini
P4	The computer generated death certificate of K.Srinivasan
P5	The photocopy of the legal heirship certificate K.Srinivasan (compared with the original)
P6	The photocopy of the petitioner's Aadhaar card. (compared with the original)
P7	The photocopy of the Aadhaar card of the respondent herein. (compared with the original)
P8	The photocopy of the Aadhaar card of the petitioner's minor son S.Vigneshwaran (compared with the original)
P9	The photocopy of the Aadhaar card of the petitioners minor daughter S.Harini. (compared with the original)
P10	The photocopy of the sale agreement executed by the petitioner in the month of November 2022. (compared with the original)
P11	The original Engineer's Report dated 01.12.2022 showing the market value of the property mentioned in the petition.

Documents exhibited by the respondent:

<i>Exhibits</i>	<i>Documents</i>
R1	Consent affidavit of Rajakumari (original)

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R.N.MANJULA, J.

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