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O.P.No.147 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.08.2023**

CORAM

**THE HONOURABLE MS.JUSTICE R.N.MANJULA**  
**O.P.No.147 of 2023**

Mrs.Annet

... Petitioner

**PRAYER:** Original Petition is filed under Sections 3, 7 to 10 and 29 of Guardian and Wards Act 1890 r/w Order XXI Rule 2 and 3 of Original Side Rules, prays that the petitioner may be appointed as the Guardian of the person and property of the minor sons viz., S.Emmanuel Samson Joshua and S.Joel Simpson Moses and permit the petitioner to sell the minors' share in the said property in Flat No.42, C-2 Rose Apartments, Lake View Street, Adambakkam, Chennai 600 088 with 298 Sq.ft undivided share of land from and out of the total extent of 3352 ft comprised in S.No.215/4, T.S.No.96/3, Block No.3, Ward No.F, Adambakkam Village together with a Flat to an extent of 505 Sq.ft plinth area in the ground floor, for a total sale consideration of Rs.12,00,000/- and to deposit the minors' share of Rs.4,00,000/- each in a Nationalised Bank as Fixed Deposit in favour of the minor sons till they attain majority and to withdraw the interest once in three months to meet the expenses of education and for the betterment and the living of minor sons till they attain majority.

For Petitioner : Ms.K.Sheeba

**ORDER**





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09.06.2011 by leaving behind the petitioner and two minor sons viz.,

S.Emmanuel Samson Joshua and S.Joel Simpson Moses as his legal heirs.

Subsequent to the death of Samuvale, the petitioner and her children are making out hard living without any solid income for the family. The father of Samuvale also died on 31.01.2022. Hence the petitioner is without any support. Further the petition mentioned property is an old Flat which is in dilapidated condition. The petitioner does not have any wherewithal to repair the same by investing money. So in all probabilities, the petitioner has thought fit to sell away the property and invest the sale proceeds in a better investment. Since the property includes the interest of her two minor sons' share, she has come out with this Original Petition.

**3.** The petitioner examined herself as P.W.1 and Exhibits P1 to P12 have been marked.

**4.** The Birth Certificates of the minor children have been marked as Ex.P2 and Ex.P3. The death certificate of the husband of the petitioner is marked as Ex.P4. The death certificate of the father-in-law of the petitioner is marked as Ex.P6. The petitioner has stated in her evidence that she has found a prosperous buyer of the petition mentioned property and entered



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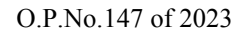
into a sale agreement dated 09.02.2023 for sale consideration of Rs.12,00,000/- which is marked as Ex.P12. The petitioner has also undertakes to deposit the minors' share in the Fixed Deposit in any Nationalised Bank till they attain majority.

5. Since the petitioner has to make out her living with her poor income derived from her occupation as a Private School Teacher, she may not have any funds to meet out the repairing expenses of the petition mentioned property. Since the children are also minors, the petitioner has taken a genuine decision of selling away the petition mentioned property in the interest of the children and in consideration of the minors' welfare. Since the petitioner proved the reasons for selling away the petition mentioned property, I feel permission should be granted to sell the property.

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

i) The petitioner is permitted to sell the share of the minors in the property described in the schedule.

ii) Such permission is subject to the condition that minors' share in the



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

Index :Yes/No  
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## **APPENDIX**

### **Petitioner's Witness :**

P.W.1 – Mrs.Annet

### **Documents marked :**

| <i><b>Exhibits</b></i> | <i><b>Documents</b></i>                                                                                             |
|------------------------|---------------------------------------------------------------------------------------------------------------------|
| P1                     | The photocopy of the sale deed dated 08.04.2005 executed in favour of Mr.P.Samuvale.                                |
| P2                     | The computer generated birth certificate of Master S.Emmanuel Samson Joshua.                                        |
| P3                     | The computer generated birth certificate of Master S.Joel Simpson Moses.                                            |
| P4                     | The computer generated death certificate of Mr.P.Samuvale.                                                          |
| P5                     | The photocopy of the legal heirship certificate of Mr.P.Samuvale.                                                   |
| P6                     | The photocopy of the death certificate of Mrs.Ananda Pirivale.                                                      |
| P7                     | The photocopy of Aadhaar Card of Master S.Emmanuel Samson Joshua.                                                   |
| P8                     | The photocopy of Aadhaar Card of Master S.Joel Simpson Moses.                                                       |
| P9                     | The photocopy of the valuation report dated 09.02.2023.                                                             |
| P10                    | The photocopy of the HP Gas Bill dated 29.12.2022 which stands in the name of Mrs.Annet.                            |
| P11                    | The photocopy of the Union Bank Pass Book bearing Account No.520101009579598 which stands in the name of Mrs.Annet. |
| P12                    | The photocopy of the sale agreement dated 09.02.2023 entered into between the petitioner and Mr.K.Selvaraj.         |

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**R.N.MANJULA, J.**

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