



O.P.No.236 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.07.2023**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 236 of 2023

Nairit Shekar Josyula

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Petitioner

Original Petition is 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, to permit the petitioner to sell the minor's property in the schedule as per the sale deed dated 06.08.2020 along with his deceased wife and to deposit a portion of the money so received towards the share of the minor in his name in any nationalized bank by way of fixed deposit to be utilized for the future of the minor child.

For Petitioner : Mr.P.Ambili Menon



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ORDER

WEB COPY 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 as per the sale deed dated 06.08.2020 along with the deceased wife and to deposit a portion of the money so received towards the share of the minor in his name in any nationalized bank by way of fixed deposit to be utilized for the future of the minor child.

2. The petitioner is the father of the minor child by name Avyaan Nairit Josyula who is aged about six years. The property is said to have been jointly purchased by the petitioner and his wife by virtue of a sale deed dated 06.08.2020. The wife of the petitioner Saranya Venkatesh passed away on 06.11.2021 leaving behind the petitioner, the minor son and her parents as her legal heirs. The parents of the deceased Saranya Venkatesh have filed a consent affidavit declaring that they do not have any interest or claim on the petition mentioned property.

3. The Schedule Property is a house flat purchased from M/s.Puravankara Limited. The petitioner intends to sell the property and



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invest a part of the sale consideration into his business and also to deposit the share of the minor in the sale proceeds in a fixed deposit in the name of the minor.

4. Since the petitioner is involved in business, any income which is derived from the business will be for the benefit and interest of the minor child.

5. The petitioner himself examined as P.W.1 and marked Ex.P1 to P5 as tabulated below:

<i>Exhibits</i>	<i>Documents</i>
P1	Computer generated birth certificate of minor child Avyaan Nairit Josyula
P2	Photocopy of construction agreement dated 04.08.2020 between Purvankara Limited and Nairit Shekar Josyula and Saranya Venkatesh (Compared with original)
P3	Photocopy of the sale deed dated 06.08.2020 in favour of Nairit Shekar Josyula and Saranya Venkatesh (Compared with original)
P4	Computer generated death certificate of Saranya A.V.
P5	Computer generated legal heirship certificate of A.V.Saranya

The birth certificate of the minor child is marked as Ex.P1 and the death certificate of wife of the petitioner Saranya Venkatesh is marked as



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Ex.P2. In the legal heirship certificate of Saranya Venkatesh which is marked as Ex.P5 it is seen that the petitioner, the minor child and the parents alone are her legal heirs. The sale deed executed in favour of the petitioner and his wife is available as Ex.P3.

6. The petitioner, being the father, is the natural guardian of the minor child. Since the mother of the minor child is no more and the property has been jointly purchased by both the mother and father of the minor child, the minor child becomes one of the legal heirs of the deceased mother and he is entitled to the half share of his mother. The father of the minor child who is the petitioner herein is involved in business and he intends to invest some money in his business to earn more income for the welfare of the child.

7. Since the petitioner being the father and the minor child is under his custody, the father has to take decisions as to the management of the property for himself and on behalf of the minor. The petitioner had undertaken to deposit the share of the minor child in the sale proceeds of the petition mentioned property in any Nationalised Bank.



8. The petitioner has got 3/4th share in the petition mentioned property and the minor has got 1/4th in the whole of the petition mentioned property and there is nothing on record to show that the father is acting against the interest of the minor. Based on the assertions in the petition and the evidence adduced in support thereof and considering the necessity for the sale of the petition mentioned property, I feel permission should be granted to the petitioner as prayed subject to condition that 1/4th of sale proceeds of the petition mentioned property should be deposited in the name of the minor in any Nationalized Bank until he becomes major.

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

i) The petitioner is permitted to sell the minor's property described in the schedule.

ii) Such permission is subject to the condition that 1/4th of the sale proceeds of the petition mentioned property should be deposited in a fixed deposit account established in a nationalized bank in the name of the minor. Such fixed deposit shall be until the minor attains the age of majority.

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



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

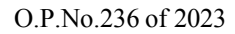
07.07.2023

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Internet :Yes/No

Speaking: Non speaking

Neutral:Yes/ No



Petitioner's witness:

Documents exhibited by the petitioner:

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R.N.MANJULA, J.

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