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O.P.No.279 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.08.2023**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 279 of 2023

S.Anitha

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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 Original Side Rules, to permit the petitioner to sell the minor's property 1/3rd share in Flat No.F-1, First Floor, in Block No.C, “Gayatri Enclave” bearing Old Door No.83, 84 & 85, New Door No.22, 24 & 26, Thiruveethi Amman Kovil Street, Villivakkam, Chennai – 600 049 measuring 830 sq.ft., (including common area) together with 550 sq.ft., of undivided share of land out of 2210 sq.ft., together with, a covered Car Park in Block No.A, including electric Service Connection with security Deposit and common facilities more fully described in schedule hereunder and to permit the petitioner to deposit the sale proceeds in the name of minor in any Nationalized until her age of majority after settling out all the dues there.

For Petitioner : Mr.V.Balakrishnan

ORDER



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The petitioner, as the mother of the minor daughter S.Sreenitha, has filed this petition seeking permission to sell the minor's 1/3rd share in Flat No.F-1, First Floor, in Block No.C, “Gayatri Enclave” bearing Old Door No.83, 84 & 85, New Door No.22, 24 & 26, Thiruveethi Amman Kovil Street, Villivakkam, Chennai – 600 049 measuring 830 sq.ft., (including common area) together with 550 sq.ft., of undivided share of land out of 2210 sq.ft., together with, a covered Car Park in Block No.A, including electric Service Connection with security Deposit and common facilities more fully described in schedule and also to deposit the sale proceeds in respect of the share of the minor in any of Nationalized Bank until the minor attains majority.

2. The petition mentioned property was purchased by D.Saravanan by virtue of a sale deed dated 23.11.2012. The said D.Saravanan had mortgaged the said property with Federal Bank Ltd., and obtained a loan for a sum of Rs.33,50,000/-. The said D.Saravanan died intestate on 09.11.2021 leaving behind his wife who is the petitioner herein, his son S.Sreelesh and the minor daughter S.Sreenitha as his only legal heirs. The said legal heirs of deceased D.Saravanan inherited the above property and they are in joint enjoyment of the same. The said Saravanan suffered from some acute health



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diseases during his last days and the petitioner is said to have taken care of him by incurring huge medical expenses. Since the deceased D.Saravanan was the sole bread winner of the family, after his demise, the petitioner is unable to meet the family and educational expenses of the children and also to clear the debts. It is stated by the petitioner that she needed to pay the monthly installments of the loan availed by D.Saravanan from the Federal Bank. After having decided to sell the property to raise some money towards the above necessities, the petitioner had filed this petition seeking permission to sell the petition mentioned property including the minor's share and to deposit the minor's share in the sale proceeds in any of the nationalized bank.

3. The petitioner examined herself as P.W.1 and marked the following documents :

<i>Exhibits</i>	<i>Documents</i>
P1	Original birth certificate of petitioner's minor daughter S.Sreenitha
P2	Computer generated death certificate of D.Saravanan
P3	Computer generated legal heirship certificate of D.Saravanan
P4	Photocopy of petitioner's Aadhaar Card. (Compared with original)
P5	Photocopy of the Aadhaar Card of petitioner's minor daughter Sreenitha Saravanan (compared with the original)

4. From the birth certificate which is produced as Ex.P1, it is seen that the petitioner's daughter S.Sreenitha is a minor and at present she is 17 years



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old. Ex.P2 is the death certificate of D.Saravanan and Ex.P3 legal heirship certificate would show that the petitioner and her two children are the only the legal heirs of deceased D.Saravanan. The petitioner had deposed in her evidence about the family circumstances which compels her to sell the property. She had also given an undertaking that the minor's 1/3 share in the sale proceeds will be deposited in a nationalized bank until her attainment of majority.

5. The property is proposed to be sold for Rs.35,00,000/- and out of which 1/3rd share would be the minor's share. Since the deceased husband of the petitioner was the sole bread winner of the family and he was ill during his last days, it is quite possible for the petitioner to suffer financial crisis after his demise. Since the petitioner cannot find any other alternate, she had chosen to sell the petition mentioned property and raise money to meet the immediate expenses like bank loan, etc. Since the petitioner had undertaken to deposit the minor's share in the nationalized bank until she attains the majority and also considering the genuineness of the compelling necessity and the same has been proved, I feel that permission should be granted to the petitioner as prayed.



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

terms:

i) The petitioner is permitted to sell the minor's 1/3rd share in the property described in the schedule.

ii) Such permission is subject to the condition that 1/3th 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

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

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Internet :Yes/No

Speaking: Non speaking

Neutral:Yes/ No



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APPENDIX

Petitioner's witness:

P.W.1 – Mrs.S.Anitha

Documents exhibited by the petitioner:

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R.N.MANJULA, J.

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