



O.P.No.274 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA
O.P.No.274 of 2023

Akshayasudha Karthigeyan

... Petitioner

PRAYER: Original Petition is filed seeking permission of Court under Section 8(2) of Hindu Minority and Guardianship Act 1956 r/w Order XXI Rule 2 & 3 of Original Side Rules to declare the petitioner as the guardian of the person and property of the minors Rohan Karthigeyan and Varun Karthigeyan; to grant permission to sell the minors' share of the property morefully described in the schedule and to invest the minors' share in any Nationalised Bank till they attain majority.

For Petitioner : Mr.S.Thiruvengadam

ORDER

This Original Petition has been filed to declare the petitioner as the guardian of the person and property of the minors Rohan Karthigeyan and Varun Karthigeyan; to grant permission to sell the minors' share of the property morefully described in the schedule and to invest the minors' share in the Fixed Deposit of any Nationalised Bank till they attain majority.

2.The averments in the Petition are as follows:-



O.P.No.274 of 2023

The petition mentioned property was originally settled in favour of the petitioner's husband Karthigeyan and his mother Nirmala by virtue of the settlement deed dated 28.06.2007 executed by Srirangammal who is the grandmother of Karthigeyan. The said Karthigeyan died on 09.06.2021 leaving behind the petitioner, two minor children by name Rohan Karthigeyan and Varun Karthigeyan and his mother Nirmala. Subsequent to the death of Karthigeyan, the petitioner found very difficult to maintain the minor children and to meet out their educational expenses and other expenses. So the petitioner and her mother-in-law Nirmala have come forward to sell the petition mentioned property along with the minors' share in the best interest of the minors. Hence the petitioner has filed this Petition seeking permission to declare herself as guardian for the person and property of the minor children and grant permission to sell the minors' share in the petition mentioned property. She has also undertaken to invest the minors' share in the Fixed Deposit of any Nationalised Bank until they attain majority.

3. The petitioner examined herself as P.W.1 and exhibits P1 to P11 were marked.

4. Ex.P1 and Ex.P2 birth certificates of minor children would show



O.P.No.274 of 2023

that the petitioner and the deceased Karthigeyan are the parents of the minor children. Ex.P3 is the photocopy of the settlement deed dated 28.06.2007 executed by Mrs.Srirangammal in favour of Mrs.Nirmala and Mr.V.Karthigeyan. The death certificate of Karthigeyan was marked as Ex.P4. Ex.P5 is the legal heir certificate of Karthigeyan and the same would show that the petitioner, the minor children and the petitioner's mother-in-law are the legal heirs of the deceased Karthigeyan. The third party affidavit filed along with the petition would show that the petition mentioned property is worth Rs.11,50,000/-.

5. The petitioner being the mother and next friend of the minors and the father of the minor children is also no more, the petitioner can be appointed as guardian of the minor children in their best interest. Since the petitioner is not employed anywhere and the sole breadwinner of the family also died, it is quite possible for the petitioner to find it difficult to maintain herself and the minor children. In the said circumstances, it is quite natural that the petitioner to think about of selling the petition mentioned property in order to raise funds for the future maintenance of the minor children. By taking into account of the undertaking given by the petitioner to deposit the share of the minors in the Fixed Deposit of any Nationalised Bank, I feel



O.P.No.274 of 2023

permission should be granted to the petitioner to sell the minors' share in the petition mentioned property.

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

i) The petitioner is appointed as a guardian of the person and property of the minors Rohan Karthigeyan and Varun Karthigeyan.

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

iii) Such permission is subject to the condition that minors' share in 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 minors. Such fixed deposit shall be maintained until the minors attain the age of majority.

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

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

Index :Yes/No
gsk

12.09.2023

APPENDIX



O.P.No.274 of 2023

Petitioner's Witness:

P.W.1 – Mrs.Akshayasudha Karthigeyan

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	the computer generated birth certificate of Master Rohan Karthigeyan.
Ex.P2	the computer generated birth certificate of Master Varun Karthigeyan.
Ex.P3	the photocopy of the settlement deed dated 28.06.2007 executed by Mrs.Srirangammal in favour of Mrs.Nirmala and Mr.V.Karthigeyan.
Ex.P4	the computer generated death certificate of Mr.Karthigeyan Vasudevan.
Ex.P5	the computer generated legal heir certificate of Mr.Karthigeyan Vasudevan.
Ex.P6	the computer generated property tax demand card standing in the name of Mrs.V.Nirmala and Mr.V.Karthigeyan.
Ex.P7	the photocopy of the petitioner's Aadhaar Card.
Ex.P8	the photocopy of the Aadhaar Card of Master Rohan Karthigeyan.
Ex.P9	the photocopy of the Aadhaar Card of Master Varun Karthigeyan.
Ex.P10	the downloaded copy of the guideline value of the property.
Ex.P11	the declaration of the petitioner's willingness to act as guardian.

12.09.2023

gsk



WEB COPY



O.P.No.274 of 2023

R.N.MANJULA, J.

gsk

O.P.No.274 of 2023

12.09.2023