



O.P.No.365 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **11.09.2023**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 365 of 2023

P.E.Chandra Kumar

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Petitioner

Original Petition is filed under Section 3, 7 to 10 & 29 of the Guardian and Wards Act, 1890 r/w. Order XXI Rule 2 & 3 of Original Side rules to appoint the petitioner as guardian of the person and property of the P.Jeshur Abishikth and to grant permission to sell the undivided half share of the schedule property of the minor mentioned in the schedule hereunder for Rupees Twenty Four lakhs to G.Britto or his nominee and permit the petitioner to deposit the minor's share of Rupees Twenty Four Lakhs in any Nationalized Bank in fixed deposit and also permit the petitioner to collect the monthly interest for the maintenance and educational expenses of the minor.

For Petitioner : Mr.K.Selvakumar



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ORDER

WEB COPY The petitioner who is the father of minor by name P.Jeshur Abishikth had filed this petition seeking to appoint himself as guardian of the person and property of his minor son and also to grant permission to sell the undivided half share of the schedule property of the minor mentioned with the schedule for Rs.24,00,000/- to one G.Brito or his nominees and permit to deposit the minor's share in any Nationalized Bank until he attains majority and to collect the monthly interest for the maintenance and education expenses of the minor.

2. The whole of the petition mentioned property was allotted to one M.J.Charles by Tamil Nadu Housing Board and later a sale deed has also been executed by Tamil Nadu Housing Board in the name of M.J.Charles on 05.11.1990. M.J.Charles was in enjoyment of the said property and he died on 22.05.2005 leaving behind his wife M.Vijayaratnam and his daughter Hephzibah Kamala. The wife of M.J.Charles died on 04.01.2019 and thereafter Hephzibah Kamala inherited the properties as the sole legal heir. Hephzibah Kamala also passed away on 14.02.2019 leaving behind the petitioner who is her husband and her minor son P.Jeshur Abishikth. Now the father of the minor has filed this petition seeking permission to sell the



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petition mentioned property along with minor's share in order to invest the same in a better manner.

3. The petitioner examined himself as P.W.1 and Exs.P1 to P11 were marked.

4. Ex.P1 is the sale deed executed in favour of M.J.Charles and Ex.P2 birth certificate would show that the minor P.Jeshur Abishikth born to the petitioner and Hephzibah Kamala. Subsequent to the demise of the parents of Hephzibah Kamala, the petitioner himself had filed an Original Petition in O.P.No.257 of 2021 for grant of Letters of Administration to administer the petition mentioned property. During that time, Hephzibah Kamala also died. The death certificate of Hephzibah Kamala is marked as Ex.P3 and from the legal heirship certificate Ex.P4 it is seen that the petitioner and his son are the only legal heirs of Hephzibah Kamala. Paper publication issued in one issue of Tamil daily “Makkal Kural” did not attract any objectors.

5. The minor is now in the custody of his father who is the petitioner herein. The petitioner had stated that the old residential house is in a dilapidated condition and the premises cannot be put to any profitable use



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unless it is demolished or reconstructed or sold and invested in some other property. Hence he had chosen to sell away the property and invest the same in a better manner.

6. From the valuation report filed as Ex.P6 it is seen that the property has been valued for Rs.47,64,000/-. The first petitioner entered into a sale agreement with one G.Brito to sell away the petition mentioned property for Rs.48,00,000/-. The petitioner had also given an undertaking that he would deposit the half of the sale proceeds which is the share of minor in a fixed deposit in any Nationalized Bank until the minor becomes major.

7. The petitioner is the only lawful guardian of the minor child and he is taking care of the minor child by keeping him in his custody and there is no objectors for appointing the petitioner as the guardian for the person and property of the minor. Taking into consideration of the above submission and considering the evidence available on record, I feel that the permission as sought by the petitioner shall be granted.



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

i) The petitioner is appointed as the guardian of the person and property of P.Jeshur Abishikth.

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

iii) Such permission is subject to the condition that half 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 P.Jeshur Abishikth. Such fixed deposit shall be until the minor attains the age of majority.

iv) The petitioner is also permitted to collect the monthly interest for the maintenance and educational expenses of the minor.

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

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

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APPENDIX

Petitioner's witness:

P.W.1 – P.E.Chandra Kumar

Documents exhibited by the petitioner:

<i>Exhibits</i>	<i>Documents</i>
P1	Sale deed dated 05.11.1990 executed in favour of M.J.Charles
P2	Birth certificate of minor P.Jeshur Abishikth
P3	Death certificate of Hephzibah Kamala
P4	Legal heir certificate of Hephzibah Kamala
P5	Letters of Administration order dated 28.01.2020 passed in O.P.No.275 of 2021
P6	Original valuation report dated 05.04.2023
P7	Original agreement for sale dated 12.04.2023 between the petitioner and one G.Birto
P8	Photocopy of petitioner's Aadhar card
P9	Photocopy of Aadhar Card of minor
P10	Paper publication dated 25.07.2023
P11	Declaration of Willingness to act as guardian.

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