



O.P.No.412 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.09.2023**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

O.P.No. 412 of 2023

Harish Kumaru

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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 1/3rd share of the minor's namely H.Meghna & H.Niharika, in the property and deposit the sale proceed of the minors' share in their respective names in any of the nationalized bank.

For Petitioner : Mr.T.R.Daveson

ORDER

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 the petitioner's 1/3rd share and also 2/3rd share of the minors' share in the



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schedule mentioned property purchased by the petitioner's deceased wife

J.Nandhini as per the sale deed dated 07.09.2022 and to deposit a portion of the money so received towards the shares of the minors in their names in any nationalized bank by way of fixed deposit to be utilized for the future of the minor children.

2. The petition mentioned property is a self acquired property of J.Nandhini who is the wife of the petitioner and the mother of the minor children by name H.Mehna and H.Niharika, by virtue of a registered sale deed dated 07.09.2022. The said Nandhini died on 11.04.2023 leaving behind her husband and her minor children and her mother alone as her legal heirs. The petitioner who is the father of the minor children have filed this petition seeking permission to sell the petition mentioned property in favour of the mother of the deceased J.Nandhini for the purpose of developing the same in the interest of the minors.

3. The petitioner himself examined as P.W.1 and Ex.P1 to P9 were marked through him.

4. From Ex.P1 - sale deed, the deceased J.Nandhini has purchased the petition mentioned property by virtue of a sale deed dated 07.09.2022. The death certificate of J.Nandhini which is marked as Ex.P4 would show that she died on 11.04.2023. Ex.P2 and Ex.P3 are the birth certificates of



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the minor children namely H.Meghna and H.Niharika. From the legal heir certificate, Ex.P5 it is seen that the petitioner and the minor children and the mother of J.Nandhini are the only legal heir of the deceased J.Nandhini. The paper publication issued one in Tamil Daily 'Makkal Kural' dated 05.08.2023 and another issue in English Daily 'Trinity Mirror' dated 05.08.2023' did not attract any objectors.

5. The sale deed entered into between the petitioner and J.Kalaivani who is the mother of the deceased J.Nandhini has also been marked as Ex.P8. The said Kalaivani also examined as PW.2 and she has stated that the petition mentioned property has not fetched any income and she has offered to buy the property just in order to develop the same in the best interest of the minor children. She has further stated that the petitioner is also residing at her house along with the minor children and he is taking care of them. Since the purchaser is none other than the grandmother of the minor children and she expressed her intention that the transaction is being done in order to enable the purchaser who is the grand mother of the children for developing the property in the best interest of the minor children and the petitioner has also given undertaking that $\frac{2}{3}^{\text{rd}}$ share of the minor children will be invested in the fixed deposit in any Nationalised Bank until they become attain major, I feel the prayer of the petitioner should be



considered positively.

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6. The petitioner has got 1/3rd share in the petition mentioned property and the minor has got 2/3rd 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, I feel permission should be granted to the petitioner as prayed subject to the condition that 2/3rd of sale proceeds of the petition mentioned property should be deposited in the name of the minor children in any Nationalized Bank until they becomes major.

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

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

ii) Such permission is subject to the condition that 2/3rd of the sale proceeds of the petition mentioned property should be deposited in a fixed deposit account established in a nationalized bank in the names of the minors. Such fixed deposit shall be until the minors attain 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 minors are granted leave to apply for release of the fixed deposit upon attaining their 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 – Mr.Harish Kumaru.

Documents exhibited by the petitioner:

<i>Exhibits</i>	<i>Documents</i>
P1	The photocopy of the sale deed dated 07.09.2022 executed in favour of Mrs.J.Nandhini (compared with the original)
P2	The computer generated birth certificate of minor H.Meghna.
P3	The computer generated birth certificate of minor H.Niharika
P4	The computer generated death certificate of Mrs.J.Nandhini
P5	The computer generated legal heir certificate of Mrs. J.Nandhini.
P6	The computer generated LPG cylinder receipt dated 21.06.2023.
P7	The photocopy of the petitioner's aadhaar card (compared with the original)
P8	The original agreement for sale dated 05.06.2023 executed between the petitioner and Mrs.J.Kalaivani.
P9	The copy of paper publication effected in one issue of Tamil Daily 'Makkal Kural' dated 05.08.2023.

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