



O.P.No.409 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. 409 of 2023

S.Kuppabai

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Petitioner

Original Petition is filed under Section 8(2) of Hindu Minority and Guardianship Act, 1956 r/w. Order XXI Rule 2 & 3 of Original Side rules to permit the petitioner herein to sell the minor's undivided share of land measuring 71 sq.ft in the schedule property and to deposit the amount of Rs.2,25,000/- in favour of the minor A.S.Sai Navin in any Nationalized Bank and to permit the petitioner to withdraw the interest.

For Petitioner : Mr. D.Senthilkumaar

ORDER

This petition has been filed by the mother of the minor child A.S.Sai Navin seeking permission to sell the minor's undivided share of land measuring 71 sq.ft in the schedule property and to deposit the amount of Rs.2,25,000/- in favour of the minor A.S.Sai Navin in any Nationalized Bank and to permit the petitioner to withdraw the interest.



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2. The petition mentioned property was originally allotted to the father-in-law of the petitioner by name Audikesavelu by virtue of a partition deed dated 17.02.1961. The said Audikesavelu died on 08.09.1975 leaving behind his wife and nine children as his legal heirs. The mother-in-law of the petitioner died on 04.06.2018 . Hence the petitioner's husband and his other siblings have inherited 1/9 undivided share in the petition mentioned property which belonged to their father. Thus the petitioner's husband A.Srinivasan also inherited 1/9 undivided share in the petition mentioned property and he died on 13.12.2020 leaving behind the petitioner and his two children as his legal heirs. Out of two children, one son by name Sai Navin is a minor. As legal heirs of the deceased A.Srinivasan who is the husband of the petitioner, the petitioner and her two children would inherit 1/3 share in the undivided 1/9 share belonged to late A.Srinivasan. Thus the minor's undivided share in the suit property would be 1/27. Since the petitioners and the other sharers thought it fit to sell the property and to utilize the sale proceeds to be invested in a better manner. Hence the petitioner had filed this petition seeking permission to sell the minor's share.

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



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4. From the death certificate Ex.P1 it is seen that Srinivasan died on 13.12.2020. From the legal heirship certificate Ex.P2 it is seen that the petitioner and her two children are the only surviving legal heir of the deceased husband Srinivasan. Ex.P3 - partition deed would show that the petition mentioned property was allotted to the share of the father-in-law of the petitioner by name Audikesavelu. Ex.P4 is the death certificate of Audikesavelu and from Ex.P5-legal heirship certificate of Audikesavelu., it is seen that his wife and nine children are his only legal heirs. Paper publication issued in one issue of Tamil daily “Makkal Kural” and in one issue of English daily “Trinity Mirror” did not attract any objectors.

5. The petitioner have already entered into a sale agreement in favour of one M.S.Ramesh Kumar for sale consideration of Rs.60,75,000/-. The petitioner had stated that the land is in a dilapidated condition and it cannot be put to any profitable use unless it is sold and invested in some better means. The petitioner had undertaken to invest the minor's share in a Nationalized Bank until he attains majority.

6. The petitioner is the only lawful guardian of the minor child and he is taking care of the minor child by keeping him in her custody and there is



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no objectors for selling the minor's property. Taking into consideration of the above submission and considering the evidence available on record, I feel the permission as sought by the petitioner shall be granted.

7. 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 the share of the minor 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 minor A.S.Sai Navin. Such fixed deposit shall be until the minor attains the age of majority.

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

iv) 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 – Kuppabai

Documents exhibited by the petitioner:

<i>Exhibits</i>	<i>Documents</i>
P1	Death certificate of Srinivasan
P2	Legal heir certificate of A.Srinivasan
P3	Partition deed dated 17.12.1961 effected between Rajagopal Naidu and Audikesavelu
P4	Death certificate of Audikesavelu
P5	Legal heirship certificate of Audikesavelu
P6	Birth certificate of minor A.S.Sai Navin
P7	Photocopy of Aadhaar Card of minor child A.S.Sai Navin
P8	Photocopy of petitioner's Aadhaar Card
P9	Sale agreement dated 29.06.2023 between D.Hemavathy and 12 other as further party and M.S.Ramesh Kumar as second party
P10	Paper publication in Tamil daily dated 05.08.2023
P11	Paper publication in English daily dated 05.08.2023

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R.N.MANJULA, J.

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