



O.P.No.623 of 2023

N.SATHISH KUMAR.J.,

This Petition has been filed under Sections 3, 7, 8, 9, 10 & 29 of the Guardian and Wards Act, 1890 r/w Order XXI, Rule 2 and 3 of the Madras High Court Original Side Rules praying to appoint the petitioner as guardian of the minors viz., (i) M.Nadhiya Sirin and (ii) Irshad Ahamed and the property of minors; permit the petitioner to sell the minors' undivided share of 426 square feet (each 213 square feet) along with his share of 214 square feet in the schedule mentioned property to the purchasers; and to permit the petitioner to deposit the amount of Rs.20,00,000/- (Rupees Twenty Lakh only) each in favour of the minor M.Nadhiya Sirin and minor Irshad Ahamed in any one of the Nationalized Banks.

2. The petitioner is the father of the minors. The daughter of the petitioner was born on 08.02.2009 and the son was born on 12.11.2010.

3. In the petition, it is stated that the subject matter of property, which is a house, ground and premises measuring 640 square feet situated at New Door No.11, Kandappa Gramani Street, Purasawalkam, Chennai, was purchased jointly in the name of the petitioner and his minor daughter and minor son together with absolute right over passage,

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comprised in old Survey No.1077, R.S.No.1041/1, Block No.24, Old CC

No.239, Purasawalkam Village and Taluk, Chennai District, on 04.11.2015

from one Radhakrishnan Jaikumar and others through a sale deed registered as Doc.No.4986 on the file the Sub Registrar, Purasawalkam. It is further stated in the petition that ever since the date of purchase, he has been in absolute possession and enjoyment of the property by obtaining patta in their joint name and each one is holding 1/3rd share in the said property. According to the petitioner, the schedule mentioned property is, however, not yielding any income and in order to augment his business and improve his business and also to take care of his minor children, he decided to sell the entire property for Rs.60,00,000/- (Rupees Sixty Lakhs only) Hence, this petition.

4.The petitioner, who examined himself as P.W.1, reiterated the averments made in the petition and filed Exs.P1 to P9. Ex.P.1 is the photocopy of the sale deed dated 04.11.2015 in respect of the schedule mentioned property standing in the name of the petitioner and his minor children. The total extent of the subject matter of property is 640 square feet and the petitioner and his minor children are entitled to each undivided 1/3rd share in the same. Ex.P.8 is the agreement of sale entered into between Mohamed Kasi, the petitioner for himself and on



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behalf of his minor children as first party and Mrs.R.Divya as second

party. Ex.P.2 is the permanent land record relating to the suit property.

Ex.P.3 and Ex.P.5 are the photocopies of the birth certificates of the minor daughter and minor son respectively. Ex.P.4 and Ex.P.6 are photocopies of the Aadhaar Cards of the minor daughter and minor son respectively. Ex.P.7 is the photocopy of the Aadhaar Card of the petitioner. Ex.P.9 is the declaration made by the petitioner expressing his willingness to accept the office of guardian of the person and property in respect of minors.

5. The petitioner in his chief examination in the form of proof affidavit has stated that the subject matter of property is not yielding any income; he and his family is reeling under financial trouble and therefore, in order to meet out his financial commitments and to start his new business and also in the interest of well being of the minors, he decided to sell the property and invest the shares of the minors in a good interest bearing deposit. The petitioner has also stated that he has not filed any other petition before any other Court seeking the same relief.

6. Considering the averments made in the petition, nature of the property which is very small in extent and the same does not yield any income and on perusing the materials available on record, this court is of the opinion that if the schedule mentioned property is allowed to be sold



and the amount is realized, the same will certainly benefit the minors.

Therefore, the petitioner is entitled for the relief sought for in the petition.

7. In fine, this petition is ordered, by appointing the petitioner as the guardian of the minors (i) M.Nadhiya Sirin and (ii) M.Irshad Ahamed and their property. The petitioner is also permitted to sell the schedule mentioned property by executing the registered sale deed for himself and on behalf of his minor children in favour of Mrs.R.Divya or her nominees or assignees. The petitioner is directed to invest Rs.20,00,000/- (Rupees Twenty Lakh only) each in the name of the minors in any one of the Nationalized Banks on any good income return deposits for a period until the respective minors attain majority. The petitioner is further directed to produce the Deposit Receipts into this court within a period of two weeks from the date of deposit of amount as directed above and on such production, the Registry shall keep the same in a safe custody until further orders from the court. The petitioner shall execute a Guardian Bond for a sum of Rs.25,000/- in favour of Assistant Registrar O.S.(II), High Court, Madras.

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