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O.P.No.747 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2023

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

O.P.No.747 of 2022

Mrs.P.Jayalakshmi
W/o.Late S.Prabhakaran
No.6/20, Arumugam Street,
Old Washermanpet, Chennai-600 021.

.. Petitioner

PRAYER: Original Petition filed under Section 8(2) of Hindu Minority & Guardianship Act, 1956, R/W. Order XXI, Rule 1 and 12 of the Madras High Court Original Side Rules prays to permit the Petitioner to sell the minors $\frac{1}{2}$ share in the schedule property to utilize the sale proceeds for purchase of a residential property in the name of the minor P.Hareesh and thus render justice.

For Petitioner : Mr.Praveen Alaxander

ORDER

The petitioner seeks permission to sell the 50% share of the minor in the property described in the schedule to this petition and to utilize the sale proceeds thereof for the purchase of a residential property jointly in the names of the petitioner and her minor son P.Hareesh.



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2. The petitioner states that she married one S.Prabhakaran and that the minor child P.Hareesh was born to S.Prabhakaran and the petitioner.

The child is about 8 years old and resides at the address specified in paragraph 2 of the petition, which is within the jurisdiction of this Court.

3. The petitioner's husband, the late S.Prabhakaran, had purchased a land measuring about 45 cents under sale deed dated 21.02.1994. He died on 11.05.2021, leaving behind his wife and son as the only surviving legal heirs. The petitioner asserts that her mother-in-law, the late Ravakannammal, died on 17.06.2012. The death certificate in such regard was produced under a memo dated 22.12.2022.

4. The petitioner asserts that she is finding it difficult to pay school fees and otherwise provide for the material needs of her minor child. For such purpose, she seeks permission to sell the schedule mentioned property and utilize the sale proceeds to purchase a residential property jointly in her name and in the name of the minor son.



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5. In order to establish entitlement to the relief claimed, the petitioner

adduced evidence by examining herself as PW1. In course of examination-in-chief of PW1, the eight documents listed at the foot of this order were exhibited as Exs.P1 to P8. The death certificate of the petitioner's late husband is on record as Ex.P2. This document discloses that he died on 11.05.2021. The legal heirship certificate of the late S.Prabhakaran discloses the names of the petitioner and the minor son, P.Hareesh, as the surviving legal heirs. The birth certificate of the minor son is on record as Ex.P4. This document discloses the names of the petitioner and the late S.Prabhakaran as the parents of the minor child. The document further discloses that the minor was born on 05.05.2014. As regards the immovable asset in respect of which permission is requested for by the petitioner, the sale deed dated 21.02.1994 in favour of the petitioner's husband is on record as Ex.P1 and the patta in the names of the petitioner and the minor son is on record as Ex.P5. For identification purposes, the Aadhaar cards of the petitioner and her minor son have been exhibited as Exs.P7 and P8.



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6. Based on the assertions in the petition and the evidence adduced in

support thereof, the petitioner is entitled to the relief claimed.

Accordingly, O.P.No.747 of 2022 is allowed by permitting the petitioner to sell the minor's share in the property described in the schedule to the petition on condition that the entire 50% share of the minor in the sale proceeds is utilized for purchasing the residential property jointly in the names of the petitioner and her minor son, P.Hareesh. Upon completion of the transactions, an affidavit of compliance along with all supporting documents shall be filed.

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Index : Yes / No

Petitioners' witness:

P.W.1 – Mrs.Jayalakshmi

Documents exhibited by the petitioner:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	The photocopy of the Sale Deed dated 21.02.1994 (Compared with the original).



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<i>Exhibits</i>	<i>Documents</i>
Ex.P2	The computer generated death certificate of Mr.S.Prabhakaran.
Ex.P3	The computer generated Legal Heirship Certificate of Mr.S.Prabhakaran.
Ex.P4	The computer generated birth certificate of my son P.Hareesh.
Ex.P5	The photocopy of the Patta bearing No.1937 in respect of the petition schedule property (Compared with the original).
Ex.P6	The photocopy of the encumbrance certificate dated 20.01.2015 for the period 01.01.1987 to 27.02.2011 (Compared with the original).
Ex.P7	The photocopy of the Aadhaar card (Compared with the original).
Ex.P8	The photocopy of the Aadhaar card of my son Mr.P.Hareesh.

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