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O.P.No.706 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2023

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

O.P.No.706 of 2022

Mrs.Cynthia Christy

... Petitioner

PRAYER: This original petition has been filed under Sections 3,7 to 10 & 29 of the Guardian and Wards Act, 1890 and under Order XXI Rules 2 & 3 of Madras High Court O.S. Rules, praying to appoint the petitioner as the guardian of the person and property of the minor viz Jairuz Samuel (b) to permit the petitioner to sell the minors 1/6th share of the schedule mentioned property for Rs.7,50,000/- (Rupees Seven Lakhs Fifty thousand only) and (c) to deposit the sale proceeds in the name of minor in any of the Nationalized Bank.

For Petitioner : Ms.S.Algammai
for M/s.Thomas and T.Jacob

ORDER



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The petitioner seeks to be appointed as the guardian of the person and property of her minor son Jairus Samuel and for permission to sell his 1/6th share in the schedule mentioned property.

2. The petitioner asserts that the property described in the schedule to the petition was owned by her father-in-law, the late Mr.John Solomon. He purchased the said property under sale deed dated 06.04.2018, which was registered as Document No.1678 of 2018 before the SRO Villivakkam. The petitioner submits that her husband, Mr.Samuel J.Solomon, died on 08.05.2018. The petitioner's father-in-law died on 17.12.2019 leaving behind as legal heirs: his wife, Mrs.Shanthi Solomon, his daughter, Sheba Jabez, the petitioner, in her capacity as daughter-in-law of the pre-deceased son, and the petitioner's son, as the only child of the pre-deceased son.

3. Since the legal heirs have entered into a memorandum of agreement for sale of the property, the present petition is filed for appointment of the petitioner as guardian and, particularly, for



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permission to sell the minor's share in the property.

4. In order to establish entitlement to the relief claimed, the petitioner was examined as P.W.1. In course of the examination in chief of P.W.1, the 8 documents listed at the foot of this order were exhibited as Exs.P1 to P8. The birth certificate of the petitioner's minor child(Ex.P1) discloses that he was born on 10.11.2012 to the petitioner and Samuel Solomon. The death certificate of Samuel Solomon (Ex.P3) discloses that he died on 08.05.2018. The death certificate of the petitioner's father-in-law, Mr.John Solomon(Ex.P4), discloses that he died on 17.12.2019. The Legal Heirship certificate in respect of Mr.John Solomon(Ex.P5) discloses the names of Mrs.Shanthi Solomon, wife; Sheba Jabez, daughter; Cynthia Christy, widow of the pre-deceased son(petitioner herein); and Jairus Samuel, son of pre-deceased son, as the legal heirs. A photo copy of the sale deed dated 06.04.2018 in favour of Mr.John Solomon and a photo copy of the unregistered Memorandum of Agreement for Sale dated 28.10.2022 are on record as Exs.P6 and P7 respectively. The petitioner has filed a declaration of willingness to be the guardian of



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the person and property of the minor(Ex.P8).

5. The petitioner is the mother and natural guardian of her minor son. All the legal heirs have decided to sell the property as evidenced by Ex.P7. Ex.P7 provides for a total sale consideration of Rs.45 lakhs. From and out of the said sum, the parties have agreed and recorded that Rs.7,50,000/-, which constitutes the minor's share, shall be deposited in the name of the minor in any nationalized bank.

6. On the basis of the evidence adduced by the petitioner, the petitioner is entitled to the relief claimed. Accordingly, O.P.No.706 of 2022 is allowed on the following terms:

(i) The petitioner is appointed as the guardian of the person and property of the minor Jairus Samuel.

(ii) The petitioner is permitted to sell the minor's 1/6th share in the schedule mentioned property subject to the condition that the entire proceeds as regards the minor's share are remitted into a fixed deposit account in the name of the minor, represented by the guardian, in



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any nationalized bank. Such fixed deposit shall be for an initial term of five years on auto renewable basis until the minor attains majority.

(iii) Upon completion of the sale and deposit in the manner specified above, the petitioner shall file an affidavit of compliance.

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Petitioner's witness:

P.W.1 - Mrs.Cynthia Christy

Documents exhibited by the petitioners:

Exhibits	Documents
Ex.P1	Computer generated birth certificate of Jairus
Ex.P2	Photocopy of the Aadhaar Card
Ex.P3	Computer generated death certificate of Samuel J.Solomon
Ex.P4	Computer generated death certificate of Dr.John Solomon
Ex.P5	Computer generated Legal Heirship certificate of John Solomon



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Exhibits	Documents
Ex.P6	Photocopy of the sale deed dated 06.04.2018 executed in favour of Mr.John Solomon and registered as Doc.No.1678 of 2018 before the SRO, Villivakkam.
Ex.P7	Photocopy of the unregistered Memorandum of Agreement for Sale dated 28.10.2022.
Ex.P8	Declaration of willingness to accept the office of the guardian of the person and property of her minor son Jairuz Samuel.

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SENTHILKUMAR RAMAMOORTHY J.



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