



O.P.No.790 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **06.02.2023**

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THE HONOURABLE **MR.JUSTICE SETHILKUMAR RAMAMOORTHY**

O.P.No.790 of 2022

Mrs.Arati Vilvaraj

... Petitioner

PRAYER: Original Petition filed under Section 8(2) of Hindu Minority and Guardianship Act,1956 read with Order XXI Rule 2 & 3 of Original Side Rules, praying that the natural guardian may be permitted to sell the flats in the Table II of the schedule hereto in the name of the minor Vidyasai Vilvaraj and to apply the said sum for the purposes mentioned in paragraph 7 hereof and permit the petitioner to deposit the balance of sale, if any, proceeds in the name of minor until he attains the age of majority.

For Petitioner : M/s.K.Bhuvaneswari



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ORDER

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The mother of the minor child, Vidyasai Vilvaraj, is the petitioner. As the natural guardian, she seeks permission to sell the flats described in Table-II of the schedule to the petition.

2. The petitioner asserts that her minor son Vidyasai Vilvaraj and his sister, Vishnu Lakshmi Vilvaraj, who is a major, are absolutely entitled to the immovable properties described in Table-II of the schedule to the petition. They are also entitled to 15 other flats, which are described in Table-I of the schedule. The said properties were settled by the petitioner's mother, Mrs.Chandra Ananthasayanam, on her grand children with life interest in favour of the petitioner under a settlement deed dated 03.09.2015, which was registered as Document No.2083 of 2015 on the file of the Sub-Registrar, Kodaikanal. By subsequent deeds of rectification and release, the life interest was relinquished.



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3. On the ground that the properties described in Table-II of the schedule are required to be sold for purposes of maintaining the other 15 flats, the present petition is filed.

4. In order to establish entitlement to the relief claimed, the petitioner adduced evidence by examining herself as P.W.1. In course of the examination in chief of P.W.1, the 7 documents listed at the foot of this order were exhibited as Exs.P1 to P7. The registered settlement deed is on record as Ex.P1. The rectification deed and the release deeds are on record as Exs.P2 to P4. The original birth certificate of Vidyasai Vilvaraj (Ex.P5) discloses that he was born on 02.06.2005. The said document indicates that the petitioner is his mother.

5. By an affidavit affirmed on 02.02.2023, the petitioner has stated that the estimated expenditure on undertaking interior and maintenance work for the other 15 flats is about Rs.64,26,524/-. Upon sale of the two flats described in Table-II of the schedule, the petitioner states that an aggregate sum of about Rs.2.07 crore would be realised. After adjusting the



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estimated expenditure and the share of the major daughter, it is stated that a sum of about Rs.71,36,738/- would remain. The petitioner undertakes to deposit this amount in a fixed deposit in the name of the minor until he attains the age of majority.

6. Based on the assertions in the petition and the evidence adduced in support thereof, the petitioner is entitled to the relief prayed for. Hence, O.P.No.790 of 2022 is allowed on the following terms:

- (i) The petitioner is permitted to sell the flats described in Table-II of the schedule to the petition.
- (ii) Such permission is subject to the condition that the petitioner shall invest a sum of Rs.71,36,738/- from and out of the sale proceeds in a fixed deposit account established in a nationalized bank in the name of the minor. Such fixed deposit shall be for an initial term of 4 months, or until the minor attains the age of majority, whichever is earlier.



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(iii) Upon complying with the above directions, an affidavit of compliance shall be filed in the registry.

(iv) The minor is granted leave to apply for release of the fixed deposit upon attaining the age of majority.

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Index : Yes / No

Internet : Yes / No

Petitioner's witness:

P.W.1 - Mrs.Arati Vilvaraj

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photo copy of the registered settlement deed dated 03.09.2015 executed by Mrs.Chandra Ananthasayanam in favour of Vidya Sai Vilvaraj and Vishnu Lakshmi Vilvaraj
Ex.P2	Photocopy of the registered settlement deed rectification dated 06.02.2020.
Ex.P3	Photocopy of the registered release deed dated 06.07.2021 executed by Mrs.Chandra Ananthasayanam in favour of Vidya Sai Vilvaraj and Vishnu Lakshmi Vilvaraj.
Ex.P4	Photocopy of the registered release deed dated 28.12.2021 executed by Mrs.Arati Vilvaraj in favour of Ms.Vishnu Lakshmi Vilvaraj and Master Vidya Sai Vilvaraj



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<i>Exhibits</i>	<i>Documents</i>
Ex.P5	Original birth certificate of Vidya Sai Vilvaraj
Ex.P6	Photocopy of petitioner's Aadhar Card
Ex.P7	Photocopy of the Aadhar card of Vidya Sai Vilvaraj

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SENTHILKUMAR RAMAMOORTHY,J

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