



WEB COPY



O.P.No.813 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.04.2023**

CORAM

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**

**O.P.No.813 of 2022**

V.Venkatraj

... Petitioner

**PRAYER:** Original Petition filed for permission under Section 8(2)(a) of Hindu Minority and Guardianship Act, 1956 read with Order XXI Rule 2 & 3 of Original Side Rules and Clause 17 of Letter Patent Act praying for

(a)to permit the petitioner herein to sell the minor undivided share of property 222.5 sq.ft out of share measuring 448 Sq.ft forming part of total extent of 890 Sq.ft the schedule property to the purchaser and execute necessary deed.

(Amended as per order dated 12.04.2023 in A.No.2154 of 2023)

(b)to permit the petitioner to deposit the balance of the minor share after settling the debts due.

(c)and pass such further or other order or orders as this Hon'ble Court may deem fit and proper in this circumstances of the case.

For Petitioner : Mr.A.Muthukumar

**ORDER**



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By this petition, the father and natural guardian of the minor, V.Jetha Shri, seeks permission to deal with the property jointly belonging to the petitioner and the minor morefully described in the schedule to the petition.

2. The petitioner asserts that the property was purchased by the petitioner and his wife jointly by a Sale Deed dated 28.05.2015, registered as Doc No.7497/2015 in the file of SRO Ambattur. The said property was purchased through a bank loan for a sum of Rs.34,00,000/- (Rupees Thirty Four Lakhs/-) for a tenure of twenty years on EMI of Rs.23,000/- (Rupees Twenty Three Thousand) on monthly basis after payment of Rs.5,00,000/- (Rupees Five Lakhs Only/-) as down payment and the petitioner has paid approximately Rs.24,00,000/- (Rupees Twenty Four Lakhs) as of now. The wife of the petitioner died intestate on 15.11.2016, leaving behind the petitioner and the minor child as her legal heirs. The wife of the petitioner was entitled to half share of the property as the property was purchased jointly by the petitioner and the deceased wife. Now out of the 50% of share the minor daughter and the petitioner is entitled to 25% of share each in the property.

3. The petitioner further submits that due to covid pandemic the



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petitioner was not able to pay the regular EMI and now the bank has initiated legal proceedings against the said property to recover the loan amount, the petitioner has several other debts also, so he had decided to sell the property along with the  $\frac{1}{4}^{\text{th}}$  share of the minor daughter, for which he had entered into a sale agreement with one R.Rajasekhar and R.Sandhya. The petitioner states that the purchaser has agreed to pay a sum of Rs.40,00,000/- (Rupees Forty Lakhs Only/-) as a sale consideration for the entire property in which the share of the minor holds to Rs.10,00,000/- and the purchaser is ready to deposit the minor's share in a nationalized bank after paying the debts and liabilities. So the petitioner seeks permission to sell the portion of the minor along with that of the petitioner's share, as the petitioner being the natural guardian of the minor.

4.In order to establish entitlement to the relief claimed, the petitioner adduced evidence by examining himself as P.W.1. In course of the examination in chief of P.W.1, 6 documents listed at the foot of this order were exhibited as Exs.P1 to P6. The birth certificate of the minor daughter (Ex.P1) discloses that she was born on 05.09.2006. As evidence of title of the petitioner and his deceased wife to the relevant immovable asset, the registered Sale Deed dated 28.05.2015 (Ex.P2) is placed on record.



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5. Based on the evidence adduced by the petitioner, the petitioner is entitled to the relief claimed on the following terms:

(i) The petitioner is permitted to sell the undivided share of the portion 222.5 sq.ft out of share measuring 448 sq.ft forming part of total extent of 890 sq.ft of the schedule mentioned property belonging to the minor V.Jetha Shri, by executing necessary deed.

(ii) the petitioner shall deposit the sale proceeds of the minor's share into an interest bearing fixed deposit in name of the minor in a nationalized bank. Such fixed deposit shall be kept renewed until the minor attains the age of majority.

(iii) After completing the aforesaid, the petitioner shall provide the fixed deposit receipt before the Assistant Registrar (Original Side-II) of this Court.

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Index :Yes/No  
Speaking: Yes/ No  
Neutral Citation: Yes/ No



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WEB COURT **Petitioner's witness:**

P.W.1 – Mr.C.Venkatraj

**Documents exhibited by the petitioner:**

| <i><b>Exhibits</b></i> | <i><b>Documents</b></i>                                                                                                                                                                                                               |
|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ex.P1                  | Computer generated birth certificate of V.Jetha shri                                                                                                                                                                                  |
| Ex.P2                  | Certified copy of the Sale Deed dated 28.05.2015 executed in favour of Mrs.K.Jamuna and Mr.V.Venkatraj (The original Sale Deed is mortgaged with the Bank. This document is marked subject to its admissibility, proof and relevancy) |
| Ex.P3                  | Computer generated death certificate of K.Jamuna                                                                                                                                                                                      |
| Ex.P4                  | Photocopy legal heirship certificate of Jamuna                                                                                                                                                                                        |
| Ex.P5                  | Photocopy of the unregistered Agreement of Sale dated 07.11.2022 in favour of Mr.R.Rajasekar and Mrs.R.Sandhiya                                                                                                                       |
| Ex.P6                  | Photocopy of the petitioner's Aadhaar card                                                                                                                                                                                            |

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