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O.P.No.554 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.07.2024**

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

O.P. No. 554 of 2022

Sushil Jethwani

... Petitioner

PRAYER: Original Petition filed under Section 8 (2) of the Hindu Minority and Guardianship Act, 1956, read with Order XXI Rule 2 & 3 of Original Side Rules to authorize the petitioner to do so all acts, deeds and things on behalf of the minor with respect to the scheduled property herein and to grant permission to the petitioner and natural guardian of the minor Master Kabir under Section 8(2) of the Hindu Minority and Guardianship Act, 1956 to enable them to mortgage, charge or to sell, or to transfer or alienate or to dispose the said property in any manner whatsoever as they may deem fit and proper in the interest of all on such terms and conditions and the share of the minor will be deposited in minors account.

For Petitioner : Mr.Arun C.Mohan

ORDER

The petition has been filed under Section 8 (2) of the Hindu



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Minority and Guardianship Act, 1956, seeking permission to the petitioner to deal with the property which had been described in schedule to the petition, which is a residential duplex apartment at the 15th and 16th floor of the building called “One Crest” situated at Larch Field, Old Door No.19-A, New Door No.113, Nungambakkam High Road, Chennai 600 034.

2. The minor Kabir Sushil Jethwani, who is just aged 2 years and 10 months and born on 16.03.2019 has a share in the said apartment. It is stated that the grandparents of the minor/parents of the petitioner had purchased the aforementioned apartment. It is stated that they had also incorporated the name of the minor as one of the purchasers, owing to the love and affection which they had bestowed on him. It is stated that now there is necessity to sell the apartment. It is stated that the property had been purchased by borrowing funds and owing to adverse market condition, the lenders would now have to be settled. The only manner by which that could be done is by alienating the said apartment. It is under those circumstances, that the petitioner had filed the present petition.



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3. The petitioner was directed to tender evidence and accordingly, he filed his proof affidavit. He also filed Ex.P1, birth certificate of the minor child, Ex.P6 – sale deed by which the property was purchased and Ex.P7 – construction agreement and valuation report as Ex.P8. The petitioner also examined his wife/mother and natural guardian of the minor child who stated that she had given her consent and that the consent affidavit may be taken on record.

4. Taking into consideration the evidence recorded and documents produced, this Original Petition is allowed. The petitioner is permitted to act as guardian in the sale deed with respect to the share of the minor with respect to the property which had been mentioned. A condition is placed that the share of the consideration of the minor should be deposited in any Nationalized Bank and the Fixed Deposit receipt should be deposited to the Court to the credit of O.P.No.554 of 2022. Let it remain in deposit. The petitioner is permitted to withdraw the interest which accrues every quarterly. If ever the petitioner seeks to withdraw



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any of the amount so deposited either in whole or in part, he may file necessary application giving the reasons for the same. The Original Petition stands allowed with the above conditions.

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Index :Yes/No
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APPENDIX

Petitioner's witness:

P.W.1 – Mr.Sushil Jethwani

P.W.2 – Ms.Anushka Sushil Jethwani

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Computer generated birth certificate of Mr.Kabir Sushil Jethwani.
Ex.P2	Photocopy of my Aadhaar Card (compared with the original).
Ex.P3	Photocopy of my passport bearing No.L5727373 (compared with the original).
Ex.P4	Photocopy of the Aadhaar card of Mr.Haresh Tejumaal Jethwani (compared with the original).



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<i>Exhibits</i>	<i>Documents</i>
Ex.P5	Photocopy of the Aadhaar Card of Mrs.Reshma Haresh Jethwani (compared with the original).
Ex.P6	Certified copy of the sale deed dated 14.02.2020 executed in favour of petitioner's parents and minor Kabir Sushil Jethwani (compared with the original).
Ex.P7	Certified copy of the construction agreement dated 14.02.2020 executed in favour of petitioner's parents and minor Kabir Sushil Jethwani (compared with the original).
Ex.P8	Valuation report dated 10.01.2022 in respect of the schedule mentioned property.
Ex.P9	Affidavit filed by me under Section 65B of the Indian Evidence Act, 1872.

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