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O.P.No.235 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.06.2024**

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

O.P. No. 235 of 2024

Abbas Alias Rafi Jaffarullakhan

... Petitioner

PRAYER: Original Petition filed under Sections 3, 7 to 10 and 29 of the Guardians and Wards Act, 1890 read with Order XXI Rules 2 & 3 of the Original Side Rules to appoint the petitioner as guardian of the person and property of the minors viz., Jaafar Abbas aged 16 years and Noor Jahan aged 14 years; permission to the petitioner herein to sell or otherwise encumber the schedule B mentioned share and utilize the funds for the benefit and welfare of the minor and permit the father and natural guardian to execute the necessary documents on behalf of the minors.

For Petitioner : M/s.Aiyar and Dolia

For Purchaser : Mr.A.V.Prakash

ORDER

The petition has been filed seeking appointment of the petitioner as the guardian of his minor son and daughter namely Jaafar



O.P.No.235 of 2024

Abbas and Noor Jahan. The petitioner has another son who had attained the age of majority, Salman Abbas.

2. It is stated that the wife of the petitioner died on 15.10.2018. The petitioner, his two sons and his daughter are entitled to 15% undivided share in the property at Door No.1/1 (1A), Mahalingam Road, Nungambakkam, Chennai, measuring 8 Grounds (i.e., 19200 sq.ft.). The entire property and not just the 15% to which the petitioner and children are entitled to are to be sold to M/s.Sooriya Hospital and in this regard, a registered agreement of sale had been entered into with all the sharers, which is dated 27.02.2024 and registered as Document No.201 of 2024 in the office of the Joint Sub-Registrar II, Thousand Lights.

3. After following due procedure, the petitioner was directed to tender evidence and accordingly, he examined himself as P.W.1. The document relating to the property which is to be sold was marked as Ex.P1. The birth certificates of his minor son and daughter were marked as Exs.P2 and P3. The death certificate and legal heirship certificate of



O.P.No.235 of 2024

his wife were marked as Exs.P4 and P5. The copy of the agreement of sale dated 27.02.2024 between Amir Jamal and 16 others and M/s.Sooriya Hospital were marked as Ex.P7. This Court wanted the purchaser also to be examined as a further witness and accordingly, the petitioner examined T.V.M.Sasidhar as P.W.2. He is working as Chief Financial Officer in M/s.Sooriya Hospital. He produced his authorisation to depose evidence as Ex.P8. In his proof affidavit, he affirmed the fact of entering into the agreement of sale on 27.02.2024 and the registration of the said agreement of sale.

4. In view of the nature of the evidence recorded, the Original Petition stands allowed. The petitioner may participate in the execution of the sale deed of the aforementioned property. The share of the minor son Jaafar Abbas namely 30% of 15% of the total area would be Rs.2,02,50,000/- and the share of his minor daughter Noor Jahan which is 15% out of 15% of the total area would be Rs.1,01,25,000/-. The petitioner is directed to deposit the above two amounts in a Fixed Deposit in any one Bank and the Fixed Deposit receipts may be



O.P.No.235 of 2024

deposited in the Court to the credit of O.P.No.235 of 2024. The petitioner is at liberty to enjoy the interest which accrues every quarterly. If at any time in the future the petitioner seeks to withdraw either the principal amount or any portion of the principal amount, he may file necessary applications for this purpose. The Original Petition stands allowed with the above terms. For that purpose, the petitioner is also appointed as guardian of his two minor children viz., Jaafar Abbas and Noor Jahan.

27.06.2024

Index :Yes/No
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APPENDIX

Petitioner's witness:

P.W.1 – Mr.Abbas alias Rafi Jaffarullakhan

P.W.2 – Mr.T.V.M.Sasidhar

Documents marked:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of the sale deed dated 07.02.1984 executed in favour of Mr.Amir Jamal and 10 others (compared with the original).
Ex.P2	Photocopy of the birth certificate of my minor son Jaafar (compared with the original).



O.P.No.235 of 2024

<i>Exhibits</i>	<i>Documents</i>
Ex.P3	Photocopy of the birth certificate of my minor daughter Noor Jahan (compared with the original).
Ex.P4	Computer generated death certificate of Mrs.Basheerin Abbas.
Ex.P5	Computer generated legal heir certificate of Mrs.Basheerin Abbas.
Ex.P6	Photocopy of my Aadhaar Card (compared with the original).
Ex.P7	Photocopy of the sale agreement dated 27.02.2024 between Mr.Amir Jamal and 16 others as the first party and M/s.Sooriya Hospital represented by its Managing Partner, Mr.Chellappan Pillai Sreekumar as the second party (compared with original).
Ex.P8	Original partnership resolution dated 29.05.2024, wherein I have been authorized to depose before this Court.

27.06.2024

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WEB COPY



O.P.No.235 of 2024

C.V.KARTHIKEYAN,J.

Gsa

O.P. No. 235 of 2024

27.06.2024