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O.P.No.517 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **02.07.2025**

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

O.P.No.517 of 2023

Mrs.Ramya N

...Petitioner

PRAYER: Original Petition filed under Section 8(2) of the Hindu Minority and Guardianship Act, 1956 and Order XXI Rule (2), (3) of O.S. Rules, and Clause XVII of Letters Patent Act, to grant permission to the petitioner to sell the minor's undivided share of land measuring 104 sq.ft(1/6th share) in the schedule mentioned property and to permit the petitioner to deposit the sum of Rs.10,41,666/- (Rupees Ten Lakhs Forty One Thousand Six Hundred and Sixty Six only) in any nationalized Bank in the name of Minor namely R.S.Mithul, S/o.Late.Senthil until he attains the age of majority.

For Petitioner : Mr.S.Bharanidharan

ORDER

By this petition, the mother and natural guardian of the minor, R.S.Mithul, seeks permission to deal with the minor's share of the property belonging to one Late Mr.Senthilraja and the petitioner.

2. The petitioner states that she was married to one Late Mr.Senthilraja and had begotten the above said Minor R.S.Mithul as their only child. The



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above said Late Mr.Senthilraja died intestate on 16.02.2014 leaving behind his wife, herein the petitioner, his minor son R.S.Mithul and his mother as his surviving legal heirs. The said legal heirs are entitled to 1/3th undivided share in the immovable property.

3. The petitioner asserts that the above-mentioned immovable property was jointly purchased by both the petitioner and her husband Late Mr.Senthilraja vide a Sale Deed dated 17.08.2012 which is registered as Document No.3062 of 2012 in the SRO of Konnur. The said Mr.Senthilraja died intestate on 16.02.2014, leaving behind his wife herein the petitioner, his son herein the minor R.S.Mithul and his mother as his only legal heirs. The legal heirs of Mr.Senthilraja each are entitled to 1/3th undivided share in his 50% share of said property including the minor. Further, the petitioner and her son Minor R.S.Mithul who is represented by her along with her mother in law entered into a sale Agreement in respect of the subject property with one Mr.D.Rajagopal for a sale consideration of Rs.62,50,000/-. In which the Minor R.S.Mithul's share alone amounts to Rs.10,41,666/-. Therefore it is necessary to permit the sale of the share of the Minor, R.S.Mithul in the immovable property which are more fully described in the Schedule 'B' of the petition.



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4. In order to establish entitlement to the relief claimed, the petitioner adduced evidence by examining herself as PW1. In the course of the examination in chief of PW1, 12 documents listed at the foot of this order were exhibited as Ex.P1 to P12. The original birth certificate of Minor.R.S.Mithul has been marked as Ex.P2, discloses that he was born on 07.12.2009. The photocopy of the death certificate of the father of the minor has been marked as Ex.P9. The photocopy of the legal heirship certificate of Late Mr.Senthilraja has been marked as Ex.P5. As evidence that the immovable property has been co-owned by the petitioner and her husband Mr.Senthilraja the registered Sale Deed dated 17.08.2012 has been marked as Ex.P3. The photocopy of the Sale Agreement dated 03.06.2024 has been marked as Ex.P6. The aadhar card of the Minor has been marked as Ex.P8. A perusal of Ex.P5 clearly substantiates the claims made in the petition that the Minor R.S.Mithul is one of the legal heirs of Late Mr.Senthilraja and he is entitled to 1/3th share in the immovable property as described in the Schedule 'B' of the petition and it further establishes that the petitioner is the mother of the minor. A paper publication has been effected and no objections have been received for the same.



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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 Minor. Mr.R.S.Mithul share of property is more fully described in the schedule 'B' of the petition.

(ii) The sale proceeds to the share of Minor R.S.Mithul shall be deposited in a fixed deposit of any Nationalised Bank which shall be renewed periodically till he attains the age of majority.

(iii) File before this Court the accounts as regards to the transaction pursuant to this order and produce the copy of the fixed deposit receipts within six months before the Assistant Registrar (Original Side-II) of this Court.

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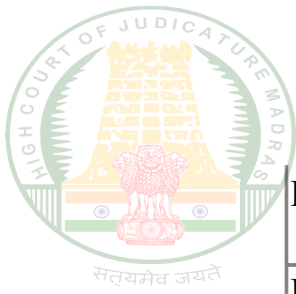
Index :Yes/No

Petitioner's witness:

P.W.1 – Mrs.Ramya N

Documents exhibited by the petitioners:

Exhibits	Documents
Ex.P1	Photocopy of certificate of marriage extract dated 03.03.2008 of P.W.1 (compared with the original)
Ex.P2	Original birth certificate of minor son R.S.Mitul.
Ex.P3	Photocopy of the sale deed dated 17.08.2012 executed in favour of Mr.G.Senthil Raja and P.W.1(Compared with the original)



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Ex.P4	Photocopy of the post mortem report of P.W.1's husband Mr.Senthil Raja (Compared with the original)
Ex.P5	Photocopy of the legal heirship certificate of husband of P.W.1, Mr.Senthil Raja (Compared with the original)
Ex.P6	Photocopy of the sale agreement dated 03.06.2024 entered between P.W.1 family members and one Mr.D.Rajagopal(Compared with the original)
Ex.P7	Photocopy of the Aadhar card of minor son R.S.Mitul (Compared with the original)
Ex.P8	Photocopy of Aadhar card of P.W.1.(Compared with the original)
Ex.P9	Photocopy of the death certificate of Mr.Senthil Raja (Compared with the original)
Ex.P10	Downloaded copy of the Certificate of loan Insurance issued by SBI Life Insurance Com Ltd standing in the name of Mr.G.Senthil Raja.
Ex.P11	Downloaded copy of the encumbrance certificate dated 18.06.2024 standing in the name of Mr.G.Senthil Raja.
Ex.P12	Certificate under Section 65 B of the Indian Evidence Act, 1872.

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