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O.P.No.395 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2024

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

O.P.No.395 of 2024

Joy Beryl John

...

Petitioner

PRAYER: Original Petition filed under Sections 3, 7, 8, 9, 10 and 29 of Guardian and Wards Act, 1890, read with Order XXI Rule 2 and 3 of Original Side Rules, with the following prayer:

1) Appointing the petitioner as the guardian of the person and property of minor Miss. Janis Geoffrey.

2) Granting permission to sell the 1/6th share of the minor in the schedule property to Mrs.S.Sheela, wife of Mr.D.Boopathy and Mr.D.Boopathy son of Late Mr.N.Duraisamy, aged about 57 years, both residing at Door No.1, 40th Street, Ashok Nagar, Chennai 600 083.

3) To deposit 1/6th share of sale proceeds i.e. Rs.41,66,667/- belonging to minor daughter to the petitioner in any nationalized bank situated in Bangalore in the name of the minor.

For petitioner : Mr.Y.Arul Manickam



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ORDER

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This Original petition has been filed under Sections 3, 7, 8, 9, 10 and 29 of Guardian and Wards Act, 1890, read with Order XXI Rule 2 and 3 of Original Side Rules, praying to appoint the petitioner / mother as the guardian of minor Miss Janis Geoffrey's person and property, grant permission to sell her 1/6th share of the scheduled property to Mrs. S. Sheela and Mr. D. Boopathy, and deposit the sale proceeds of Rs.41,66,667 into a nationalized bank in Bangalore in the minor's name.

2. The learned counsel for the petitioner submitted that the petitioner herein is the mother of the minor child, Janis Geoffrey. The father of the minor child, Mr.Geoffrey George, died intestate on 05.10.2012 leaving behind his wife, the petitioner herein and his minor daughter. The petitioner / mother and her minor daughter are currently residing at No.2/4, Damodara Mudaliar Street, 1st Cross Street, Bangalore North, Karnataka 560 008. Bangalore.

2.1. The petitioner's mother in law Mrs.Sugantha George, purchased the property mentioned in the schedule from one Mr.K.Krishnan, son of Mr.P.Ragavan, vide Sale Deed dated 27.01.1961, registered as Document



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No.231 of 1961 at Sub Registrar Office in T.Nagar. Subsequently, she constructed a house on the property. Mrs.Sugantha George died intestate on 19.11.1997, leaving behind her husband Mr.S.George (petitioner's father in law), her son Mr.Geoffrey George (petitioner's husband) and two daughters, Mrs.Pearly Adam and Ms.Reena George. The petitioner's father in law Mr.S.George also passed away on 28.05.2015. Thus, presently the two daughters of Mrs.Sugantha each hold 1/3 share, while the petitioner and her minor daughter are each entitled to 1/6 share in the property mentioned in the schedule.

2.2. The scheduled property, an old residential building constructed many years ago, is in dilapidated condition and does not generate any income either to the petitioner / mother or the co-sharers. Further, the petitioner / mother needs to maintain a sufficient corpus fund to cover the significant expenses related to higher education and secured future of the minor daughter. In this circumstance, Mrs.Sheela and her husband, Mr.D.Boopathy, both residing at No.1, 40th Street, Ashok Nagar, Chennai 600 083, offered to purchase the schedule property for a total consideration of Rs.2,50,00,000/-. The petitioner / mother and the co-owners entered into an agreement with Mrs.Sheela and Mr.D.Boopathy in Chennai on



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2.3. As per the agreement, both the minor child and the petitioner / mother will receive a sum of Rs.41,66,667/- each. The petitioner / mother asserts that the proposed sale of schedule property is a legal necessity, as the other co-sharers are inclined to sell the property for the reasons stated above. Additionally, this sale would benefit the welfare of the minor child. It has also been stated that the entire share of the minor girl from the sale proceeds will be deposited in a bank and will be used for minor daughter's education alone.

3. The petitioner / mother Mrs.Joy Beryl John examined herself as P.W.1 and marked Exs.P1 to P14. Ms.Reena George, the maternal aunt of the minor and co- sharer of the scheduled property was examined as P.W.2 and marked Ex.P.15. She deposed that she has no objection to the sale of the schedule property and has entered into an agreement with the proposed purchasers, Mr.D.Boopathy and Mrs.Sheela. The proposed purchaser Mr.D.Boopathy was examined as P.W.3.

4. Taking into consideration the welfare of the minor child and that



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the co-owners, namely the maternal aunts of the minor are willing to sell the property and also the dilapidated condition of the building, along with the petitioner's request for funds for the purpose of minor's education, I find that the sale of the property is in the best interest and in the welfare of the minor.

5. Accordingly, the original petition is allowed. The share of the minor in the sale consideration to the extent of Rs.41,66,667/- after receipt of sale consideration of the property shall be deposited in the name of the minor in the Indian Bank, High Court Branch, Chennai, in fixed deposit, till the minor attains majority. The petitioner / mother is entitled to receive the interest once in 6 months on the fixed deposit. It is open to the petitioner / mother to file necessary application in case she needs any amount from the said fixed deposit, for the welfare of the minor. Copy of Sale deed to be produced before this Court within one month from the date of registration of sale deed.

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Neutral Citation: Yes/No
Speaking order : Yes/No
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APPENDIX

Petitioner's witness:



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P.W.1 - Mrs.Joy Beryl John

P.W.2 - Ms.Reena George

P.W.3 - Mr.D.Boopathy

Documents marked:

<i>S.No</i>	<i>Particulars</i>	<i>Exhibits</i>
1	Certified copy of the sale deed dated 27.01.1961 registered as Doc.No.231 of 1961 at SRO, T.Nagar, Chennai (witness states that the original of this document is misplaced and a complaint has been lodged before police station for which missing certificate has been issued on 05.02.2013. This document is marked subject to its admissibility, proof and relevancy)	P1
2	Photocopy of the missing certificate dated 05.02.2013 issued by office of the Inspector of Police before High Court, Police Station, Chennai 104 for Ex.P1 sale deed (Compared with the original)	P2
3	Original death certificate of Mrs.Sugantha George	P3
4	Photocopy of the legal heir ship certificate of Mrs.Sugantha George (Compared with the original)	P4
5	Original birth certificate of P.W.1's minor daughter Janis Geoffrey	P5
6	Photocopy of the death certificate of Mr.Geoffrey George (Compared with the original)	P6
7	Photocopy of the legal heir ship certificate of Mr.Geoffrey George (Compared with the original)	P7
8	Photocopy of the death certificate of Mr.S.George (Compared with the original)	P8
9	Photocopy of the legal heir ship certificate of Mr.S.George (Compared with the original)	P9
10	Photocopy of the certificate of extract from the town	P10



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<i>S.No</i>	<i>Particulars</i>	<i>Exhibits</i>
	survey land register in respect of the schedule mentioned property (Compared with the original)	
11	Photocopy of P.W.1's Aadhaar Card (Compared with original)	P11
12	Photocopy of the Aadhaar Card of P.W.1's minor daughter Janis Geoffrey (Compared with the original)	P12
13	Photocopy of the Aadhaar Card of Ms.Reena George, who is the co sharer in the property	P13
14	Photocopy of the sale agreement dated 25.02.2023 (Compared with the original)	P14
15	Affidavit of P.W.2	P15

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RMT. TEEKAA RAMAN, J.

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To:

The Manager,

Indian Bank,

High Court, Madras.

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