



O.P.No.628 of 2023

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**N.SATHISH KUMAR, J.**

This Petition has been filed under Section 8 [2] of the Guardians and Wards Act, 1980 and Order XXI Rule 2 and 3 of Original Side Rules seeking permission to sell the half share of the minor in the property to Mr.Sivasakthivel for a sum of Rs.35,00,000/-.

2. The case of the petitioner is that the schedule property to a total extent of 1110 sq.ft. has been purchased by the mother of the petitioner on 31.10.2022 and by virtue of a settlement deed dated 10.05.2023, she has settled the property in favour minor Pavithra and her elder sister Shreenidhi. The respondent is the erstwhile husband of the petitioner and father of the minor child. However, her marriage with the respondent had dissolved and he married for the second time. The petitioner being the mother of the minor, in order to maintain the minor and also to take care of her education, she seeks to sell half share of the minor.



3. The learned counsel appearing for the respondent submitted that the property could be sold for more than Rs.1.25 crores and the share of the minor will come to Rs.62.50 lakhs. However, the sale agreement has been entered for only Rs.70 lakhs. If the property is sold for real value, he has no objection for granting permission to the petitioner to sell the share of the minor provided the share of the minor shall be deposited in any of the nationalised bank in interest bearing deposit.

4. On the side of the petitioner, petitioner examined herself as P.W.1 and Ex.P.1 to P.7 are marked. Ex.P.5 is the settlement deed executed in favour of minor and her elder sister and thereby the minor Pavithra and her elder sister became the absolute owner of the property by virtue of the settlement deed executed by the grand mother of the minor. It is not disputed that the marriage between the petitioner and the respondent is dissolved and the respondent has also married second marriage. The minor is under the care and custody of the petitioner. The minor has half share in the property and the remaining half share is owned by the elder sister of the minor. If the entire property is sold, it would be useful for developing the



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property. If half of the share is sold, it will not be feasible for construction, which is hardly 550 sq.ft. and it will not be useful for any purpose or fetch any income. Unless the entire extent is sold, the property will not fetch any value.

The prospective buyer Mr.Sivasakthivel was examined as P.W.2. In his evidence P.W.2 has expressed his willingness to purchase the property. He has specifically stated in his cross examination that the present market value for the entire property is Rs.1 Crore 25 lakhs and if the Court Orders, he is ready to deposit the said amount.

Considering the averments made in the petition and the evidence of P.W.1 and P.W.2 and on perusing the materials available on record, I am of the opinion that the petitioner is entitled for the relief as sought for in the petition.

Accordingly, this petition is ordered and permission is accorded to the petitioner to sell the property to the prospective purchaser for a sum of



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Rs.1,25,00,000/- [Rupees one crore twenty five lakhs only] in which the minor share will come to around Rs.62,50,000/- [Rupees sixty two lakhs fifty thousand only] and the same shall be deposited in any of the nationalised bank in interest bearing deposit till the minor attains majority. The petitioner is entitled to utilise the interest from the bank for maintenance of the minor and also for education purpose of the minor. The deposit receipt shall be produced before this Court within the period of **one month** from the date of execution of the sale deed in favour of the purchaser.

**07.03.2024**

**vrc**



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