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O.P.No.68 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04.06.2024**

CORAM

THE HONOURABLE MS.JUSTICE C.V.KARTHIKEYAN

O.P. No. 68 of 2024

Shafia Kouser

... Petitioner

PRAYER: Original Petition filed under Sections 3, 7 to 10 & 29 of the Guardians and Wards Act, 1890 and read with Order XXI Rules 2 and 3 of the Original Side Rules (a) to declare the petitioner namely Mrs.Shafia Kouser as legal Guardian of the person and property of her minor son namely Abuzer Arakham; (b) to permit the petitioner to sell 4.9% undivided share of her minor son namely Abuzer Arkham property which is more fully described in the petition 'B' schedule hereunder for a sum of Rs.12,00,000/- to 1) Mr.A.Abdul Rahman and 2) Mr.A.Yasar Arafath or any of their nominees and (c) to permit the petitioner to deposit for a sum of Rs.12,00,000/- towards the sale consideration before this Court and permit the petitioner to withdraw the accrued interest/income from the said sale consideration once in six months for spending towards the expenses of the petitioner's minor son.

For Petitioner : M/s.V.Sangavi



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ORDER

The petition has been filed taking advantageous of Sections 3, 7, 8, 9, 10 and 29 of the Guardians of Ward Act, 1890, seeking to appoint the petitioner as guardian of her minor son, Abuzer Arkham.

2. The husband of the petitioner, V.Arshad Ahmed had died on 25.11.2018. The petitioner had married him on 01.12.1995. Apart from the minor son, they also had two other daughters who had attained the age of majority. Her husband along with his brothers and sisters and his mother was the owner of the property which is described in Schedule 'A' at Door No.78, (7/78), Door No.51, then Door No.97, situated at Sir Thiagaraya Road, Pondy Bazaar, T. Nagar, Chennai – 600 017, measuring 814 Sq. feet and measuring as per pattta 1100 Sq.ft. There is a ground floor and first floor. The total constructed area is 1400 Sq.ft. The property originally belonged to one V.Obaidur Rahman and on his death, the mother of the husband of the petitioner, the husband, his sister and two other brothers became entitled to the said property. On the death of



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the husband of the petitioner, his undivided 14/64th share fell once again to the shares of his mother, petitioner/his wife and his two daughters and the minor son. All of them had executed a release deed in favour of two of the brothers of the husband of the petitioner, V.Rashaad Ahmed and V.Raashid Ahmed. Unfortunately in the release deed, the undivided share of the minor son was also included. Later a settlement was executed in favour of the minor son of the petitioner. It is stated that the minor son is undergoing training to become Hafiz-e-Quaran and other related studies of Hadees. It is stated that the petitioner requires to sell the property towards the educational expenses of her minor son. As a matter of fact, the larger portion of the property which is Schedule 'A' had already been purchased by A.Yasar Arafath and A.Abdul Rahman. They had purchased 95.01% of the property. The remainder has to be now sold, which is the share of the minor son of the petitioner. The petitioner has undertaken that the sale proceeds would be deposited into Court. The sale proceeds had been determined as Rs.12,00,000/-.

3. In this connection, the petitioner was directed to tender evidence and accordingly, she had examined herself as P.W.1 and



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marked Ex.P1, the birth certificate of the minor son and Ex.P2, death certificate of her husband and Ex.P6, release deed dated 17.05.2022 and Ex.P7, copy of the settlement deed dated 04.07.2022. The agreement of sale under which the property is to be sold dated 14.09.2022 has been marked as Ex.P8. The sale deed with respect to 95% of the property has been marked as Ex.P12.

4. Taking all the documents into consideration and the undertaking given to deposit the sale consideration into Court, the Original Petition stands allowed with a direction that on execution of sale deed in favour of A.Yasar Arafath and A.Abdul Rahman, the petitioner must deposit the sale consideration into Court. She is permitted to withdraw the interest which accrues once in every three months. On attaining majority, her son is entitled to withdraw the sale consideration. Naturally, the petitioner, for this purpose, is also appointed and recognized as guardian of her minor son, Abuzer Arkham.

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