



O.P.No.22 of 2024

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WEB CO **N.SATHISH KUMAR, J.**

This Petition has been filed under Section 3,7 to 10 & 29 of the Guardians and Wards Act, 1890 read with Order XXI Rule 2 and 3 of Original Side Rules, seeking to appoint the petitioner as natural guardian for the person and the property of the minors viz., Minor Mariyam Hafila.N and Minor Arifa.N and to permit the petitioner to sell the property of the minors.

2. It is the case of the petitioner that she and her husband jointly purchased an extent of 737 sq.ft., out of 3575 sq.ft., of the undivided share of land. After purchase, the building was constructed. The petitioner is having 50% of undivided share in the property. While the matter stood thus, the petitioner's husband Mr.A.Naseer Hasan died on 02.06.2021 leaving behind the petitioner, two of his minor daughters and mother of the deceased as Class-I legal heir. The petitioner is having 12.50% undivided share, each minors are having 35.41% shares, mother of the deceased is having 16.68%, in the 50% share of the undivided share of the deceased. As there is no legal guardian available as per the Muslim Law, the petitioner has filed the present petition Seeking to be appointed as the guardian and also to sell the



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minors shares as stated supra.

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3. The petitioner, who examined herself as P.W.1, reiterated the averments made in the petition and marked Ex.P.1 to P.11. P.W.1 in her evidence has stated that the minor daughters were born to the petitioner and her husband. Ex.P.1 and P2 are the birth certificate of the minor daughters dated 30.07.2005 and 07.08.2008. Ex.P.3 is the sale deed document No.1631/2011 in favour of the petitioner and A.Naseer Hasan dated 09.05.2011. Ex.P.4 shows that the agreement for construction in favour of A.Naseer Hasan and the petitioner dated 11.05.2011. Ex.P.5 shows that the husband of the petitioner died on 02.06.2021. Ex.P.6 is the computer generated legal heir certificate of the deceased. Ex.P.7 is the photocopy of the sale agreement dated 05.08.2023 in favour of N.Anciya.

4. It is the further evidence of P.W.1 that for the betterment of minors and for the purpose of their future educational expenses, she had decided to dispose of the property. Ex.P8,9,10 are copy of the Aadhar card of the petitioner and her minor daughters. Ex.P11 is the death certificate of the



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deceased father. Despite paper publications, none objected.

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5. Considering the evidences of the petitioner and the further fact that minors have only fractional share in the undivided property and the property remained as a flat, except small amount of rent, it may not augment any income. If the property is sold for considerable amount, it may fetch a decent sale consideration. That the amount can be better used for the purpose of betterment of minors, besides their education.

6. Accordingly, this petition is ordered, the petitioner is appointed as the Guardian of the person and property of the minors Mariyam Hafila.N and Arifa.N. The petitioner is also permitted to sell the property mentioned in the schedule on behalf of the minors and deposit the share of of the minors in a fixed deposit in any of the nationalized bank in the name of the minors, till the minors attain majority. The petitioner shall produce a copy of the deposit receipt within one month from the date of the execution of the sale deed in favour of the purchaser and the petitioner shall receive the accrued interest, once in three months, from the deposit and utilise the same for the purpose of the education of her daughters. The petitioner shall



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execute a Guardian Bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in favour of Assistant Registrar O.S.(II), High Court, Madras.

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