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O.P. No.247 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE P.DHANABAL

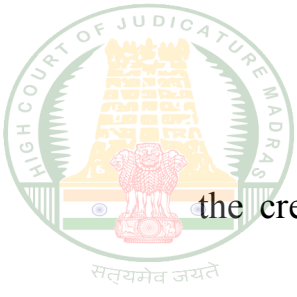
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A. Blessy Priyakumari W/o. S. Athiyaman

... Petitioner

PRAYER: Original Petition is filed under Section 3, 7 to 10 and 29 of the Guardians and Wards Act, 1890 read with Order XXI Rule 2 and 3 of the Original Side Rules praying to appoint the petitioner as the guardian of the person and property of the minors viz., (1) A. Sherley Padmavathy and (2) A. Roshan, to permit the petitioner to sell the 2/3 undivided share in the below mentioned property belongs to the minor daughter A. Sherley Padmavanathy and minor son A. Roshan, to permit the petitioner to deposit the minor children's sale consideration for each child to the tune of Rs.15,50,000/- and to grant permission to the petitioner to withdraw the interest amount periodically that accumulates over the deposited amount into

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the credit of the above mentioned petition for the well-being of the minor children.

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For Petitioner : Mr.A.G.D. Balakumar

ORDER

This petition has been filed under Section 3, 7 to 10 and 29 of the Guardians and Wards Act, 1890 read with Order XXI Rule 2 and 3 of the Original Side Rules to declare the petitioner as the guardian of the person and property of the minors viz., (1) A. Sherley Padmavathy and (2) A. Roshan, to grant permission to the petitioner to sell the minor children's undivided share in the petition-mentioned property, to permit the petitioner to deposit the sale consideration of each minor child to the tune of Rs.15,50,000/- and to permit the petitioner to withdraw the interest amount periodically that accumulates over the deposited amount into the credit of the above mentioned petition for the well-being of the minor children.



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2. According to the petitioner, her husband late S. Athiyaman, had originally purchased the schedule mentioned property in the year 2015 and thereafter, he died intestate on 03.09.2018 leaving behind his wife and the two minor children as his legal heirs to succeed the estate. The mother of S. Adhiyaman, predeceased S. Adhiyaman on 22.09.2004. Therefore, the petitioner, as wife of the deceased and the two minor children are entitled to their respective shares in the said property. The petitioner is the mother and natural guardian of her two minor children. The deceased was the sole breadwinner of her family. After the death of her husband, the petitioner being an house-wife, found very difficult to maintain the minor children and to meet out their educational expenses and other expenses. Therefore, the petitioner has come forward to sell the petition-mentioned property along with the minors' 2/3rd share in the best interest of the minors and the sale consideration is fixed at Rs.45,45,000/-. The petitioner has also undertaken to invest the minors' share of Rs.15,15,000/- each into a Nationalized Bank.

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After the demise of her husband, the minor children are under the care and

custody of their mother, the petitioner herein and she is fit and proper person to be a guardian of the minor children. Therefore, the petitioner has filed this petition seeking permission to appoint herself as guardian for the person and property of the minor children and to grant permission to sell the minors' share in the petition-mentioned property and also to withdraw the interest amount periodically accumulates over the deposited amount to spend the same for the well being of the minor children.

3. After filing of this petition, paper publication was effected and no any objection from any party. Thereafter, the matter was posted for examination of witnesses. On the side of the petitioner, PW1 was examined and Ex.P.1 to Ex.P.16 were marked.

4. This Court also perused the evidence and the entire records.

5. As per the evidence of PW1 and the documents Ex.P.1. to Ex.P.16,



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they revealed that the petitioner and the deceased are the husband and wife

and they are the parents of the minor children. Ex.P.7 shows that the

petitioner and the minor children are the legal heirs of the deceased S.

Athiyaman. The minor children are now under the care and custody of the

petitioner. The father of the minor children is no more and the petitioner

being the mother, is the only care-taker of the minor children and she has no

any adverse interest against the minor and therefore, she can be appointed as

guardian of the minor children in their best interest. Since the petitioner is not

employed anywhere and the sole bread winner of the family, the husband of

the petitioner, also died, it is quite possible for the petitioner to find it difficult

to maintain herself and the minor children. Therefore, she has decided to sell

the petition mentioned property in order to raise funds for the future

maintenance and interest of the minor children. Therefore, in view of the

above, the petitioner is entitled to sell the property for the interest of the

minor.



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6. With the above said observations, this **original petition is allowed**

on the following terms:

(i) The petitioner is appointed as a 'guardian' of the person and property of the minor daughter A. Sherley Padmavanathy and minor son A. Roshan.

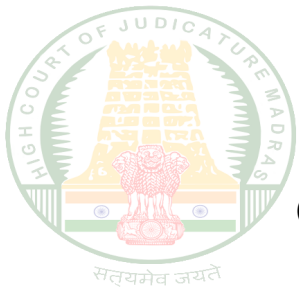
(ii) The petitioner is permitted to sell the share of the minor children in the property described in the schedule.

(iii) The petitioner is permitted to deposit the minor children's sale consideration for each child to the tune of Rs.15,50,000/- into a Nationalized bank and

(iv) The petitioner is permitted to withdraw the interest amount periodically that accumulates over the deposited amount for the well-being of the minor children.

(v) Upon complying with the above directions, an affidavit of compliance shall be filed in the Registry.

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(vi) The minors are granted leave to apply for release of the fixed deposit upon attaining the age of majority.

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Index : Yes/No

Speaking Order : Yes/No

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APPENDIX:

List of Petitioner side Witnesses:

PW1 : Mrs. A. Blessy Priyakumari

List of Petitioner side Documents:

Exhibit No.	Date	Description of Documents.
Ex.P.1.	19.10.2015	Photocopy of the Sale Deed vide Doc. No.4786/2015 registered in the Sub-Registrar Office, Purasawalkam.
Ex.P.2	23.07.2019	Photocopy of the receipt of cancellation of Deposit of Title Deed registered as Doc. No.4416/2019 of Book I at Sub-Registrar Office, Purasawalkam.
Ex.P.3	18.07.2024	Original Property Valuation Report given by the licensed valuer.



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Ex.P.4.	-	Photocopy of the Marriage Invitation of the petitioner Ms. Blessy Priyakumari and her husband Mr. S. Athiyaman (late).
Ex.P.5	25.09.2004	Photocopy of the Death Certificate of Mrs. Padmavathy, the Mother of Mr. S. Athiyaman (Date of Death: 22.09.2004).
Ex.P.6	10.03.2021	Online copy of Death Certificate of Mr. S. Athiyaman (Date of Death: 03.09.2018).
Ex.P.7	12.10.2018	Online copy of the Legal Heir Certificate of Mr. S. Athiyaman.
Ex.P.8	17.09.2024	Online copy of the Certificate of Encumbrance.
Ex.P.9	-	Photocopy of the Aadhar Card of the petitioner Ms. A. Blessy Priyakumari.
Ex.P.10	03.12.2024	Online copy of the Birth Certificate of 1st Minor, A. Sherley Padmavathy (Date of Birth: 06.06.2007).
Ex.P.11	03.12.2024	Online copy of the Birth Certificate of 2nd Minor, A. Roshan (Date of Birth: 01.12.2009).
Ex.P.12	-	Photocopy of the Aadhar Card of the 1st Minor, A. Sherley Padmavathy.
Ex.P.13	-	Photocopy of the Aadhar Card of the 2nd Minor, A. Roshan.
Ex.P.14	14.06.2024	Original Bonafide Certificate of the 1st Minor, A. Sherley Padmavathy.



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Ex.P.15	18.06.2024	Original Bonafide Certificate of the 2nd Minor A. Roshan.
Ex.P.16	08.08.2024	Original Unregistered Sale Agreement executed by the petitioner and on behalf of the Minor children to Imran Sheriff.

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