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O.P.No.113 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.07.2025**

CORAM

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**

O.P.No.113 of 2025

Mrs.Geetha

...Petitioner

PRAYER: Original Petition filed under Section 8(2) of Hindu Minority and Guardianship Act, 1956, read with Order XXI Rule 2 & 3 of O.S. Rules, praying:-

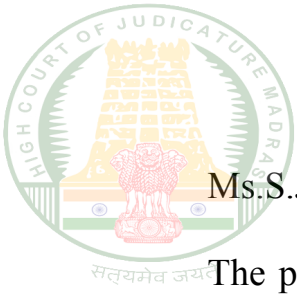
- a) To permit the petitioner herein to sell the undivided share of land of two minors children measuring 112 sq.ft each totalling 224 sq.ft in the schedule property.
- b) To permit the petitioner to deposit the amount of Rs.3,75,000/- each in favour of the Minor S.Shashwath and Minor Ms.S.Jhaarsana in any Nationalized Bank;
- c) To permit the petitioner to withdraw the interest.
- d) And pass such further or other order or orders as this Hon'ble Court may deem fit and proper in this circumstances of the case.

For Petitioner : Mr.D.Senthil Kumar

**ORDER**

By this petition, the mother and natural guardian of the minors, Master S.Shashwath and Minor Ms.S.Jhaarsana, seeks permission to deal with both the minors share of the property from the share in the immovable property belonging to their father Late Mr.K.Swaminathan.

2. The petitioner states that she got married to one Mr.Swaminathan and had begotten the minors Master. S.Shashwath and Ms.S.Jhaarsana as her children in the duration of the marriage. The petitioner further states that her father-in-law Late Mr.Keerthivasan had purchased an immovable property vide Sale Deed dated 13.11.1991 registered as Doc.No.4410 of 1991 in SRO, Pallavaram. Later he died on 29.10.2011 leaving behind his wife Mrs.K.Vijayalakshmi, his daughters Mrs.Kavitha and Mrs.Kousalya and his son Mr.K.Swaminathan as his legal heirs. The said legal heirs were entitled to 1/4th share each in the immovable property. The petitioner submits that one of the above said legal heir Mr.K.Swaminathan who is her husband and the father of the minors was entitled to his 1/4th share in immovable property. Later Mr.K.Swaminathan died intestate leaving behind his wife, the petitioner herein; his children the minors, Master S.Shashwath and Minor



Ms.S.Jhaarsana and his mother Mrs.Vijayalakshmi as his only legal heirs.

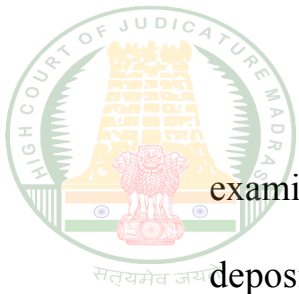
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The petitioner contends that legal heirs of Mr.K.Swaminathan were entitled to 1/4th share each from Mr.K.Swaminathan's 1/4th share in the property.

Therefore the above said legal heirs are entitled to 1/16th share each in the immovable property mentioned in the schedule of the petition.

3. The petitioner further submits that the she along with her minor children and the other legal heirs have entered into a Sale Agreement with Mr.B.Dinesh and Mr.Sandeep Jain to sell their respective shares in the immovable property mentioned in the schedule of the petition for a Sale consideration of Rs.60,00,000/-. Since the minors Master S.Shashwath and Minor Ms.S.Jhaarsana each hold a 1/16th share in the schedule property they are entitled to Rs.3,75,000/- each from the total Sale proceeds as mentioned in the Schedule of the Petition. Therefore it is necessary to permit the sale of the shares of the Minor Master.S.Shashwath and Minor Ms.S.Jhaarsana for their welfare and benefit.

4. In order to establish entitlement to the relief claimed, the petitioner adduced evidence by examining herself as PW1. In the course of the



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examination in chief of PW1, she had produced 13 documents to support her deposition which are listed as Ex.P1 to Ex.P13 at the foot of the order. She had produced the photocopy of the birth certificates of the minor Master S.Shashwath as Ex.P6 and Minor Ms.S.Jhaarsana as Ex.P8 and on perusing both Ex.P6 and Ex.P8 it can be seen that the Minor Master S.Shashwath was born on 30.03.2010 and Minor Ms.S.Jhaarsana was born on 17.08.2011. Further the Ex.P6 and Ex.P8 also clearly establishes that the petitioner is the mother of the minors. As the evidence to the title held by her father-in-law towards the immovable property, the petitioner had produced the Sale Deed dated 13.11.1991 registered as Doc.No.4410 of 1991 in SRO, Pallavaram as Ex.P3. The photocopy of the legal heirship certificates of Mr.Kirthivasan and his son Mr.K.Swaminathan were marked as Ex.P5 and Ex.P2 respectively. The photocopy of the Sale Agreement dated 27.01.2025 has been marked as Ex.P11. The combined perusal of Ex.P5 and Ex.P2 substantiates the claims made in the petition, that the father of minors Mr.K.Swaminathan was entitled to 1/4th in the immovable property as one of the legal heirs of Mr.Keerthivasan and the minors Master.S.Shashwath and Ms.S.Jhaarsana as two of the legal heirs of Mr.K.Swaminathan are entitled to 1/16th share each from the immovable property mentioned in the schedule of the petition. The



general paper publications have been effected which are marked as Ex.P12 and Ex.P13 and no objections had been received for the same.

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5. Mr.B.Dinesh who is as one of the 'Purchaser' in the Ex.P11 has been examined as PW2. He had filed his proof affidavit, in which he had spoken about the Sale Agreement which has been marked as Ex.P11 and undertaken to deposit the Minor Master S.Shashwath and Minor Ms.S.Jhaarsana share of Rs.3,75,000/- each in any nationalized bank. He has also marked his aadhar card as Ex.P14.

6. Based on the evidence adduced by the petitioner, the petitioner is entitled to the relief claimed on the following terms:

(i) The petitioner is permitted to sell the minor Master S.Shashwath and Minor Ms.S.Jhaarsana share of property is more fully described in the schedule.

(ii) The sale proceeds to the share of Minor Master S.Shashwath and Minor Ms.S.Jhaarsana shall be deposited in the name of the minors in any of Nationalized Bank which shall be renewed periodically till the minors attain the age of majority.



(iii) The petitioner is permitted to withdraw the interest of the deposits and may use it for the welfare of the minors.

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(iv) File before this Court the accounts as regards to the transaction pursuant to this order and produce the copy of the deposit receipts within six months before the Assistant Registrar (Original Side-II) of this Court.

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Index :Yes/No

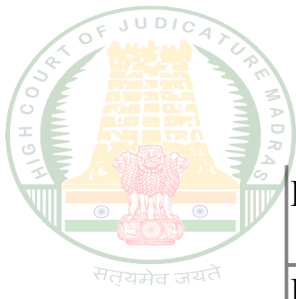
Petitioner's witness:

P.W.1 – Mrs.Geetha

P.W.2 – Mr.B.Dinesh

Documents exhibited by the petitioners:

Exhibits	Documents
Ex.P1	Photocopy of the Death Certificate of K.Swaminathan dated 01.11.2011.(Compared with original)
Ex.P2	Photocopy of the Legalheirship certificate of Late K.Swaminathan dated 02.01.2012.(Compared with the original)
Ex.P3	Photocopy of the Sale Deed registered as Doc.No.4410 of 1991 in SRO, Pallavaram in favour of Mr.Keerthivasan dated 13.11.1991.(Compared with the original)
Ex.P4	Photocopy of the Death Certificate of late S.Kirthivasan dated 01.11.2006.(Compared with the original)
Ex.P5	Photocopy of the Legalheirship Certificate of late Kirthivasan dated 13.01.2007.(Compared with the original)



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Ex.P6	Photocopy of the Birth Certificate of Minor S.Shashwath dated 25.08.2010.(Compared with the original)
Ex.P7	Photocopy of the Aadhaar Card of Minor S.Shashwath.(Compared with the original)
Ex.P8	Photocopy of the Birth Certificate of Minor S.Jhaarsana dated 16.11.2011.(Compared with the original)
Ex.P9	Photocopy of the Aadhaar Card of Minor S.Jhaarsana.(Compared with the original)
Ex.P10	Photocopy of the Aadhaar Card of Mrs.Geetha.(Compared with the original)
Ex.P11	Photocopy of the Sale Agreement dated 27.01.2025.(Compared with the original)
Ex.P12	Photocopy of the Paper publication effected in the Tamil Daily Makkal Kural dated 20.03.2025.
Ex.P13	Photocopy of the Paper publication effected in English Daily Trinity Mirror dated 20.03.2025.
Ex.P14	Photocopy of the Aadhaar Card of Mr.Dinesh.(Compared with the original)

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