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O.P.No.732 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2025

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

O.P.No.732 of 2024

S.Sangeetha

...Petitioner

PRAYER: Original Petition filed under Section 8(2) (a) of the Hindu Minority and Guardianship Act 1956 read with Order XXI Rule 2 & 3 of O.S.Rules, praying that this Hon'ble Court may be pleased to permit the petitioner:

(i) To sell the petition schedule Item-1 and Item-2 mentioned properties to the proposed purchasers for reasonable and marketable values of the properties;

(ii) To deposit 2/3rd (Two Third) share amount of the Item-1 schedule mentioned property and 1/3rd (One Third) share amount of the Item-2 Schedule mentioned property in any one of the Nationalised Banks in the name of minor daughter S.Jeeva Sree; and

(iii) pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr.S.L.Venkatesan



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ORDER

WEB COPY By this petition, the mother and natural guardian of the minor, S.Jeeva Sree, seeks permission to deal with the minor's share of the property belonging to one S.Sathish Kumar, who was the father of the minor and the husband of the petitioner. Mr.S.Sathish Kumar was married to the petitioner and begotten the minor S.Jeeva Sree out of their wedlock. The said S.Sathish died intestate on 01.11.2017 leaving behind the petitioner, who is his wife, his mother and daughter minor S.Jeeva Sree as his surviving legal heirs. The father of S.Sathish predeceased him.

2. The petitioner asserts that the properties mentioned in the petition schedule were purchased by Late S.Sathish Kumar on 03.02.1999 vide document No.318 of 1999 and on 03.11.2016 vide document No.5889 of 2016 through a Home Loan of Rs.65,00,000/-. Since S.Sathish Kumar died intestate on 01.11.2017, the property was devolved upon the petitioner, his mother and the minor daughter as his surviving legal heirs. After the death of S.Sathish Kumar, the petitioner is repaying the debt of Home Loan. The mother in law of the petitioner and grandmother of the minor settled her 1/3rd share in the item 1 property in favour of the minor. Therefore, the minor is entitled to 2/3rd share in item 1 property and 1/3rd share in item 2



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property. In order to settle the Home Loan it is required to sell the properties mentioned in the petition schedule. Hence, it is necessary to permit the sale of the shares of the Minor S.Jeeva Sree, i.e. 2/3rd share in item 1 property and 1/3rd share in item 2 property of the late S.Sathish Kumar for her benefit.

3. In order to establish entitlement to the relief claimed, the petitioner adduced evidence by examining herself as PW1. In the course of the examination in chief of PW1, 13 documents listed at the foot of this order were exhibited as Ex.P1 to Ex.P13. The birth certificate of Minor S.Jeeva Sree has been marked as Ex.P7, discloses that she was born on 22.09.2007. The death certificate of S.Sathish Kumar as Ex.P3 and legal heir certificate of S.Sathish Kumar as Ex.P5. As evidence of the title of Late S.Sathish Kumar, the registered sale deeds dated 03.02.1999 and 03.11.2016 as Ex.P1 and Ex.P6. The settlement deed in favour of Jeeva Sree as Ex.P2. The OTS agreement issued by Bank as Ex.P9.

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



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(i) The petitioner is permitted to sell the minor.S.Jeeva Sree's share of 2/3rd in item 1 property and 1/3rd in item 2 property more fully described in the schedule to the petition.

(ii) The sale proceeds to the share of the minor. S.Jeeva Sree shall be deposited in a fixed deposit of any Nationalised Bank which shall be renewed periodically till she attains the age of majority.

(iii) File before this Court the accounts as regards to the transaction pursuant to this order and produce the copy of the fixed 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.S.Sangeetha

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of the sale deed dated 03.02.1999 executed in favour of Mr.S.Sathishkumar (Compared with the original)
Ex.P2	Photocopy of the settlement deed dated 16.12.2020 executed by Mrs.S.Banumathi in favour of my minor daughter S.Jeeva Sree (Compared with the original)



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<i>Exhibits</i>	<i>Documents</i>
Ex.P3	Photocopy of the death certificate of Mr.Sriramulu Sathish Kumar (Compared with the original)
Ex.P4	Photocopy of the burial ground report of Mr.Sriramulu Sathish Kumar (Compared with the original)
Ex.P5	Photocopy of the legal heir ship certificate of Mr.S.Sathish Kumar (Compared with the original)
Ex.P6	Certified copy of the sale deed dated 03.11.2016 executed in favour of Mr.S.Sathish Kumar (Witness states that the original of this sale deed is mortgaged with Indian Bank, Vadapalani Branch for availing home loan bearing A/c.No.6480038341 and the same has been averred in Para 6 of the proof affidavit. This document is marked as secondary evidence subject to its proof and relevancy)
Ex.P7	Computer generated birth certificate of my minor daughter S.Jeeva Sree.
Ex.P8	Online printout of guideline value of the property mentioned in the petition.
Ex.P9	Photocopy of the OTS Agreement/Sanction Letter dated 28.06.2023 given by Indian Bank to me (Compared with the original)
Ex.P10	Copy of the letter dated 29.12.2023 sent by me addressed to The Branch Manager, Indian Bank, Vadapalani Branch with regard to loan obtained by my husband Mr.S.Sathishkumar.
Ex.P11	Photocopy of my Aadhaar Card (Compared with the original)
Ex.P12	Photocopy of the Aadhaar Card of my minor daughter S.Jeeva Sree (Compared with the original)
Ex.P13	Certificate under Section 65 B of the Indian Evidence Act, 1872.

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