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O.P. No.306 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2025

CORAM :

THE HONOURABLE MR.JUSTICE P.DHANABAL

O.P. No.306 of 2025

M. Kotteswari W/o. Late D. Mohan

... Petitioner

PRAYER: Original Petition has been filed under Section 8(2) of Hindu Minority and Guardianship Act, 1956, read with Order XXI Rule 2 & 3 of Original Side Rules praying to (a) permit the petitioner herein as 'natural guardian' to sell the share of minor (1/3rd share) in the petition-mentioned property; (b) allow the petitioner to deposit the minor's 1/3rd share in the total sale consideration in any one of the Nationalized bank; (c) allow the petitioner to withdraw the interest of the amount deposited from the Nationalized bank, once in three months till the minor attains majority and to use the same for the welfare of the minor.

For Petitioner : Mr.B. Namasivayam

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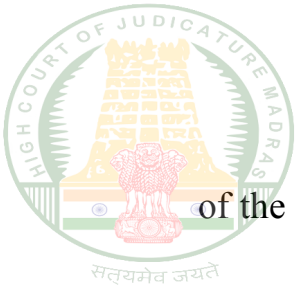
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ORDER

The Original Petition has been filed under Section 8(2) of Hindu Minority and Guardianship Act, 1956, read with Order XXI Rule 2 & 3 of Original Side Rules by the mother of a minor child M. Dharshini to appoint her as 'guardian' of the minor child and to grant permission to sell shares of the minor child in the schedule mentioned property in the petition and to withdraw and use the same for the welfare of the minor.

2. According to the petitioner, the schedule mentioned property in the petition was settled in favour of her deceased husband D.Mohan by his mother Tmt. D. Karpagam alias D. Kuppabai vide Settlement Deed dated 11.06.2007. Hence, her husband is the absolute owner of the schedule mentioned property in the petition. Thereafter, the petitioner's husband D. Mohan died intestate on 03.03.2021 leaving behind his wife, son M. Bharath and a minor daughter M. Dharshini. Therefore, the petitioner, as wife

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of the deceased and her two children, being Class I Legal heirs, are entitled to

their respective shares equally in the said property. The petitioner is the

mother and natural guardian of her two 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 children and to meet

out their educational expenses and other expenses. Therefore, the petitioner

has come forward to sell the property together with 1/3rd share of the minor

daughter in the petition-mentioned property for the benefit and welfare of the

minor. One Mrs. S. Selvi, is proposed to purchase the petition mentioned

property from the petitioner. Already the petitioner and her son and on behalf

of the minor daughter, had entered into a Sale Agreement dated 31.05.2025

for a total sale consideration of Rs.45 lakhs and the minor daughter's share

would come at Rs.15 lakhs. The petitioner has undertaken to invest the

minor's share of Rs.15,00,000/- into a Nationalized Bank. After the demise of

her husband, the minor child is under the care and custody of her mother, the

petitioner herein and she is fit and proper person to be a guardian of the minor

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child.

2.1. It is also the contention of the petitioner that already an Original Petition in O.P. No.557 of 2024 with similar prayer was filed by the petitioner and the same was allowed by this Court with a direction to complete the sale process within 4 months and to file a compliance report within 15 days. Since the earlier sale process could not be completed within the stipulated time as per the direction of the Court and the petitioner is proposed to sell the property to the new purchaser namely Mrs. S. Selvi, she has filed this petition seeking permission to appoint herself as guardian for the person and property of the minor child and to grant permission to sell the minor's share in the petition-mentioned property and also to withdraw the interest amount accumulates over the deposited amount once in three months to spend the same for the well being of the minor child.

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 and PW2 were

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examined and Ex.P.1 to Ex.P.15 were marked.

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

5. On a perusal of evidences of PW1 and PW2 and the documents, Ex.P.1 to Ex.P.15 revealed that the petitioner and the deceased D.Mohan are the parents of the minor child M. Dharshini and the petitioner and her children are the legal heirs of the deceased and the petitioner is in need of money for the maintenance and educational expenses of the minor child. The petitioner's son and her minor daughter are now under the care and custody of the petitioner. The father of the minor child is no more and the petitioner being the mother, is the only care-taker of the minor child 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, her husband, also died, it is quite possible for the petitioner to find it difficult to maintain herself and the children. Therefore, she has decided to

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sell the petition mentioned property to one Mrs. S. Selvi W/o. M. Santhosh

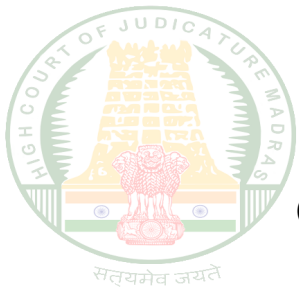
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Kumar in order to raise funds for the future maintenance of the children. The said Mrs. S. Selvi was examined as PW2 and she has deposed that she is ready to purchase the petition mentioned property from the petitioner, her son and her minor daughter and she has executed a Sale Agreement dated 31.05.2025 for a total sale consideration of Rs.45 lakhs and she is ready to deposit the share of the minor daughter to the tune of Rs.15 lakhs in any one of the Nationalized Banks before the date of registration of the Sale Deed. Therefore, the sale of the minor's property is for the interest of the minor and no any adverse interest against the minor and the petitioner can be permitted to sell the share of the minor child's property.

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 M. Dharshini.

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

(iii) The petitioner is permitted to deposit the minor daughter's share, in the total sale consideration, to the tune of Rs.15,00,000/- into a nationalized bank and

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

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

(vi) The minor daughter is 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:

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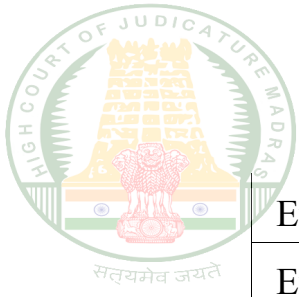
List of Petitioner side Witnesses:

PW1 : Mrs.M. Kotteswari

PW2 : Mrs. S. Selvi

List of Petitioner side Documents:

Exhibit No.	Date	Description of Documents.
Ex.P.1.	-	Computer generated copy of the Birth Certificate of Minor M. Dharshini.
Ex.P.2	-	Photocopy of the Settlement Deed registered as Doc. No.2554 / 2007.
Ex.P.3	-	Certified copy of the Release Deed registered as Doc. No.4127/2004.
Ex.P.4.	-	Certified copy of the Settlement Deed registered as Doc. No.4275/2004.
Ex.P.5	-	Certified copy of the Settlement Deed registered as Doc. No.2552/2007.
Ex.P.6	-	Computer generated copy of the Death Certificate of Mr. D. Mohan.
Ex.P.7	-	Computer generated copy of the Legal Heir Certificate of Mr. D. Mohan.



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Ex.P.8	31.05.2025.	Photocopy of the Sale Agreement.
Ex.P.9	-	Photocopy of Aadhar Card of the petitioner.
Ex.P.10	-	Print out of the order copy in O.P. No.557 of 2024.
Ex.P.11	-	Declaration of Willingness executed by the petitioner.
Ex.P.12	23.07.2025	One issue of paper publication effected in Tamil Daily "Makkal Kural".
Ex.P.13	23.07.2025	One issue of paper publication effected in English Daily "Trinity Mirror".
Ex.P.14	-	Certificate under Section 63 of B.S.A. filed for Exs.P.1, P3 to P7.
Ex.P.15	-	Photocopy of Aadhar Card of PW2.

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