



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.02.2025**

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

O.P.No.568 of 2024

N.M.Rizwana Parwin

...Petitioner

PRAYER: Original Petition filed under Section 3, 7 to 10 & 29 of Guardian and Wards Act 1890 read with Order XXI Rule 2 and 3 of O.S.Rules, praying this Hon'ble Court to:

(a) appoint the petitioner as Guardian of the person and property of the Minor Viz., N.M.Fariedhaa aged 14 years.

(b) permit the petitioner to sell the minor's share over the Schedule mentioned property which work outs to be Rs.19,19,976.40 and

(c) permit the petitioner to deposit the said share over sale proceeds in to this Hon'ble Court for investment in any Nationalized bank for a period till minor attain majority and render justice.

For Petitioner : M/s.T.K.S.Gandhi



ORDER

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By this petition, the mother and natural guardian of the minor, N.M.Fariedhaa, seeks permission to deal with the minor's share of the property belonging to one M.Muhammed Kassim, who was the paternal grandfather of the minor and father in law of the petitioner. The said M.Muhammed Kassim died intestate on 06.08.2023 leaving behind two sons, one daughter and two grandchildren including minor through his predeceased son. One Basheer Mohamed, a son among two sons of late.M.Muhammed Kassim and who was mentally challenged person died as bachelor on 18.11.2023.

2. The petitioner asserts that the above-mentioned property was purchased in favour of Mrs.M.Faridha Beevi vide sale deed document No.4738 of 1979 dated 06.12.1979. The said Mrs.Faridha Beevi is the paternal grandmother of the minor and mother in law of the petitioner. She died on 01.11.2006 leaving behind her husband and four children. The children of Faridha executed a release deed document No.3671 of 2008 on 23.10.2008 in favour of their father M.Muhammed Kassim. During his lifetime, he was in peaceful possession and enjoyment of the said land. The father died on 06.08.2023 leaving behind two sons, one daughter and two



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grandchildren including minor through his predeceased son. One more son named Basheer Mohammed also died on 18.11.2023. As the said M.Muhammed Kassim died intestate, the surviving legal heirs of him i.e., a son and a daughter and legal heirs of deceased son are entitled to undivided share in the said property in the ratio of 2:1:2. On that parlance, the petitioner and her two daughter are entitled for equal shares in that 2/5th share. It is necessary to permit the sale of the share of the Minor, N.M.Fariedhaa 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, 16 documents listed at the foot of this order were exhibited as Ex.P1 to P16. The birth certificate of Minor. N.M.Fariedhaa has been marked as Exp5, discloses that he was born on 14.05.2009. The death certificates of the grandparents and father of the minor as Ex.P2, Ex.P8 and Ex.P6. The legal heir certificates of the grandparents and father of the minor as Ex.P3, Ex.P7 and Ex.P9. As evidence of the title of late.Faridha Beevi, the registered Sale Deed dated 06.12.1979 as Ex.P1. The release deed in favour grandfather of Minor as Ex.P4. The agreement of sale has been marked as Ex.P15.



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4. 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.N.M.Fariedhaa share of property is more fully described in the schedule.
- (ii) The sale proceeds to the share of N.M.Fariedhaa shall be deposited in a fixed deposit of any Nationalised Bank which shall be renewed periodically till he 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.Rizwana Parwin

P.W.2 – Mr.Hari Ramalingam

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of the sale deed dated 06.12.1979 executed in favour of Mrs.Faridha Beevi (Compared with the original)
Ex.P2	Computer generated death certificate of Mrs.M.Faridha Beevi



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<i>Exhibits</i>	<i>Documents</i>
Ex.P3	Photocopy of the legal heir ship certificate of Mrs.M.Faridha Beevi (Compared with the original)
Ex.P4	Photocopy of the release deed dated 23.10.2008 executed in favour of Mr.M.Mohammed Kassim (Compared with the original)
Ex.P5	Computer generated birth certificate of minor N.M.Fariedhaa.
Ex.P6	Computer generated death certificate of Mr.Nassir Mohammed.
Ex.P7	Computer generated legal heir ship certificate of Mr.Nassir Mohammed.
Ex.P8	Computer generated death certificate of Mr.Mohammed Kassim.
Ex.P9	Computer generated legal heir ship certificate of Mr.Mohammed Kassim.
Ex.P10	Downloaded copy of the encumbrance certificate for the period 01.01.1979 to 25.06.2024.
Ex.P11	Photocopy of the Aadhaar Card of minor N.M.Fariedhaa (Compared with the original)
Ex.P12	Photocopy of my Aadhaar Card (Compared with the original).
Ex.P13	Declaration of my willingness to act as guardian.
Ex.P14	Certificate under Section 65 B of the Indian Evidence Act, 1872.
Ex.P15	Original sale agreement dated 05.06.2024 entered by me with the petitioner and four others.
Ex.P16	Photocopy of my Aadhaar Card (Compared with the original)

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