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O.P.No.671 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **05.02.2025**

CORAM

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

O.P.No.671 of 2024

Mrs.M.Revathi

... Petitioner

PRAYER: Original Petition filed under Section 8(2)(a) of the Hindu Minority and Guardianship Act, read with Order XXI Rule 2 and 3 of the Original Side Rules for permitting the petitioner a) to sell the minor share of 25% out of 50% share in the petition mentioned property to Mrs.O.Kalaiselvi D/o.Oorkavalan, W/o.Mr.I.Manoharan residing at No.H 1159 Ellis Nagar, Madurai South, Arasaradi, Madurai South, Tamil Nadu 625016; b) to deposit fifty percent of the sale proceeds (or as directed by the Court) i.e., Rs.5,00,000/- (Rupees Five Lakhs) in any one of the Nationalised Banks in the name of the minor; (c) pass such order or other orders .

For Petitioner : Ms.S.Ambigai

ORDER

By this petition, the mother and natural guardian of the minor, Master Nihith Revathi Sai Murali, seeks permission to deal with the minor's share of the property belonging to one N.Prasad Rao, who was the paternal grandfather of the minor and father in law of the petitioner.



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Late.N.Prasad Rao was married to Mrs.Swarna Kumari and begotten two sons namely, 1) Mr.P.Arun Prasad and 2) Mr.P.Murali Prasad. N.Prasad Rao and Swarna Kumari died intestate on 13.10.2019 and 14.10.2019 respectively leaving behind their sons as their surviving legal heirs. Mr.P.Murali Prasad was married to petitioner and Minor Master Nihith Revathi Sai Murali was born out of their wedlock. Late. Murali Prasad who is the father of the Minor and husband of the petitioner died intestate on 24.02.2022 leaving behind the minor and petitioner was his surviving legal heirs.

2. The petitioner asserts that the property mentioned in the petition schedule was purchased by Late.N.Prasad Rao on 15.04.1999 vide document No.1714 of 1999. During his lifetime, he was in peaceful possession and enjoyment of the said land. Since, late N.Prasad Rao and his wife Late Swarna Kumari died intestate in the year 2019, the property devolved upon their sons equally. Late.P.Murali Prasad who is one of their sons, died intestate on 24.02.2022, leaving behind the minor Nihith Revathi and the petitioner who is his wife as his surviving legal heirs. Hence, the petitioner and minor Nihith jointly gets half share from the property of late N.Prasad Rao as the legal heirs of Late P.Murali Prasad.



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Further, the petitioner and Mr.P.Arun Prasad, another son of Late N.Prasad Rao entered into an agreement of sale with One Kalaiselvi on 18.05.2024 to sell their shares in the property of Late N.Prasad Rao for a sale consideration of Rs.20,00,000/-. It is necessary to permit the sale of the share of the Minor Nihith Revathi Sai Murali, i.e. 25% in the property of Late N.Prasad Rao, for his 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, 14 documents listed at the foot of this order were exhibited as Ex.P1 to Ex.P14. The birth certificate of Minor Nihith Revathi has been marked as Ex.P9, discloses that he was born on 29.05.2018. The death certificates of the father and grandparents of the minor have been marked as Ex. P7, Ex.P3 and Ex.P4. The legal heir certificates of Late.P.Murali Prasad and Late N.Prasad Rao as Ex.P5 and Ex.P6. As evidence of the title of Late N.Prasad Rao, the registered sale deed dated 15.04.1999 compared with original as Ex.P2. The agreement of sale has been marked as Ex.P10. The proposed purchaser Mrs.O.Kalaiselvi has been examined as PW2.



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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. Master Nihith Revathi Sai Murali's share of 25% out of property more fully described in the schedule to Mrs.O.Kalaiselvi.
- (ii) The sale proceeds to the share of the minor. Master Nihith Revathi Sai Murali 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

Speaking order: Yes/ No

Neutral Citations: Yes/ No



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Petitioner's witness:

P.W.1 - Mrs.M.Revathi

P.W.2 – Mrs.O.Kalaiselvi

Documents exhibited by the petitioner:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of the promoters agreement dated 28.08.1998 executed between M/s.J.V.D.Constructions and Mr.N.Prasad Rao (Compared with the original)
Ex.P2	Photocopy of the sale deed dated 15.04.1999 executed in favour of Mr.N.Prasad Rao (Compared with Original)
Ex.P3	Computer generated death certificate of Mr.N.Prasad Rao.
Ex.P4	Computer generated death certificate of Mrs.Swarnakumari Prasad Rao.
Ex.P5	Computer generated legal heirship certificate of Mrs.Swarnakumari Prasad Rao.
Ex.P6	Computer generated legal heirship certificate of Mr.N.Prasad Rao.
Ex.P7	Computer generated death certificate of Mr.Murali Prasad Rao
Ex.P8	Photocopy of the affidavit given by Tahsildar, Kavali, Andhra Pradesh regarding the family members of Mr.P.Murali Prasad Rao (Compared with the original)
Ex.P9	Computer generated birth certificate of Nihith Revathi Sai Murali
Ex.P10	Photocopy of the agreement for sale dated 18.05.2024 (Compared with the original)
Ex.P11	Photocopy of PW-1's Aadhaar Card (Compared with the original)



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<i>Exhibits</i>	<i>Documents</i>
Ex.P12	Photocopy of the Aadhaar Card of Mr.P.Arun Prasad (Compared with the original)
Ex.P13	Photocopy of the Aadhaar card of minor Nihith Revathi Sai Murali (Compared with the original)
Ex.P.14	Certificate under Section 65B of the Indian Evidence Act, 1872.

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