



O.P.No.557 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 22.01.2024

Pronounced on : 29.01.2025

Coram:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Original Petition No.557 of 2024

M.Kotteswari

... 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 that pleased to (a) permit the petitioner herein as natural guardian to sell the share of minors share (1/3rd share) each in the petitioner property; (b) allow the petitioner to deposit the minors' 1/3rd share each 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 minors attains majority and to use the same for the welfare of the minors.

For Petitioner : Mr.B.Namasivam

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 two minor children to appoint her guardian of minor



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children and permission to sell shares of the minor children in the petition mentioned property.

2. The petition scheduled property came into the hands of the petitioner and her two minor children in the following manner:-

D.Mohan, husband of the petitioner, acquired the property from his mother, D.Karpagam alias D.Kuppabai. The said Mohan died intestate, and on his death, the petitioner and her two children being Class I heirs, are each entitled to a 1/3rd share in the property.

3. The petitioner, to meet out her expenses, decided to sell the property to one M.Venkatesan for a sale consideration of Rs.39,35,000/-. She has also given an undertaking that 1/3rd of the sale proceeds will be deposited for each of the minor children. The said M.Venkatesan, the proposed buyer, has mounted the witness box and deposed that he is ready to purchase the property as per the sale agreement dated 16.04.2024 [Ex.P.6] for a sum of Rs.39,35,000/-. He further stated that 1/3rd share of sale proceeds, amounting to Rs.13,11,000/-, will be deposited in the names of the minors, M.Bharath and M.Dharshini, in any of the Nationalized banks as directed by this Court.



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4. The petitioner was examined as PW.1 and marked 13 documents.

Mr.M.Venkatesan was examined as PW.2 and one document was marked. The following documents were marked as Ex.P1 to Ex.P.14.

<i>Exhibits</i>	<i>Documents</i>
Ex.P.1	Computer generated birth certificate of my minor son M.Bharat
Ex.P.2	Computer generated birth certificate of my minor daughter M.Dharshini
Ex.P.3	Photocopy of the settlement deed dated 11.06.2007 executed in favour of my husband
Ex.P.4	Computer generated death certificate of my husband Mr.D.Mohan
Ex.P.5	Computer generated legal heirship certificate my husband Mr.D.Mohan
Ex.P.6	Photocopy of the sale agreement dated 16.07.2024 executed in favour of Mr.M.Venkatesan
Ex.P.7	Computer generated death certificate of my mother-in-law Mrs.D.Karpagam alias D.Kuppabai
Ex.P.8	Photocopy of my Aadhaar Card
Ex.P.9	My declaration of willingness
Ex.P.10	Certificate under Section 63 of BSA
Ex.P.11	Photocopy of my Aadhaar Card (Mr.M.Venkatesan)
Ex.P.12	Certified copy of the release deed dated 03.10.2004 executed in favour of Mrs.D.Karpagam alias D.Kuppabai
Ex.P.13	Certified copy of the settlement deed dated 25.10.2004 executed in favour of Mr.D.Mohan and Mr.D.Roobalingam
Ex.P14	Certified copy of the settlement deed dated 11.06.2007 executed in favour of Mr.D.Karpagam alias Kuppabai.

5. The petitioner has traced the right and title through exhibits P.12 to P.14, as the property was settled in favour of Mohan, the late husband of the petitioner and the father of the two minor children.



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6. Permission to sell the property is granted on the condition that a 1/3rd

share for each minor child be deposited in Indian Bank, High Court branch, till they attain majority. The petitioner/mother will be entitled to withdraw the interest once every six months and utilize the same for the welfare of the minor children till they attain majority. The sale process shall be completed within four months and the minors' shares must be deposited in the bank mentioned above soon thereafter and the compliance must be reported to this Court within 15 days from the date of completion of the sale.

7. With the above directions, this *Original Petition stands disposed of*.

29.01.2025

Index: Yes/No.

Internet : Yes/No.

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Petitioner's witness:

P.W.1 –M.Kotteswari

P.W.2 – M.Venkatesan

Documents marked:



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Dr.G.JAYACHANDRAN, J.

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delivery order made in
Original Petition No.557 of 2024

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