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O.P.No.688 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2025

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

O.P.No.688 of 2024

K.Padmavathi

...Petitioner

PRAYER: Original Petition filed under Section 8 (2) of Hindu Minority and Guardianship Act 1956 read with Order XXI Rule 2 and 3 of O.S. Rules, prays-

(a) Permit the petitioner to sell the minor's share in the schedule mentioned property.

(b) that ½ share of the sale proceeds (minor's share) may be fixed for the maintenance and education of the minor.

(c) That the said guardian may be at liberty to invest the ½ share of the sale proceeds of the minor, after payment of any sums if necessity arises and the costs of this application in.

(d) Such other relief as to this Court may deem fit.

For Petitioner : M/s.Hepzhiba

ORDER

By this petition, the mother and natural guardian of the minor, P.S.Shaswanth, seeks permission to deal with the minor's share of the property belonging to one Late.Mr.P.Senthilmurugan who was married to the



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petitioner and had begotten the above said minor P.S.Shaswanth as their only son. The said Late.Mr.P.Senthilmurugan died intestate on 17.06.2021 leaving behind his wife, the petitioner and his son, the minor P.S.Shaswanth his surviving legal heirs. The said legal heirs are entitled to 1/2th undivided share in the property.

2. The petitioner asserts that the above-mentioned property was absolutely inherited by Late.Mr.P.Senthilmurugan under the Release Deed dated 14.12.2018, which was executed in favour of the deceased by his brothers Mr.P.Moorthy and Mr.P.Madasamy. During his lifetime, he was in peaceful possession and enjoyment of the property. As the said Late.Mr.P.Senthilmurugan died intestate on 17.06.2021, the legal heirs of him are entitled to 1/2th undivided share in the said property including the minor Master.P.S.Shaswanth. The petitioner therefore submits that it is necessary to permit the sale of the share of the minor, P.S.Shaswanth 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, 10 documents listed at the foot of this order were exhibited as Ex.P1 to P10. The photocopy of the birth certificate of



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Minor.P.S.Shaswanth has been marked as ExP2, which discloses that he was born on 15.11.2017. The computer generated death certificate of the father of the minor Late.Mr.P.Senthilmurugan as Ex.P7. The legal heir certificate of Late.Mr.P.Senthilmurugan as Ex.P8. As evidence of the title of late Late.Mr.P.Senthilmurugan, the photocopy of the Release Deed dated 14.12.2018 Ex.P3. From Ex.P3 it is clear that the Late.Mr.P.Senthilmurugan was owner of the property mentioned in the schedule. The perusal of Ex.P8 makes it clear that the petitioner and the Minor.P.S.Shaswanth are the only legal heirs of the deceased Late.Mr.P.Senthilmurugan and the petitioner is the mother of the said minor P.S.Shaswanth.

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.P.S.Shaswanth's share of property more fully described in the schedule.

(ii) The sale proceeds to the $\frac{1}{2}$ of the Minor.P.S.Shaswanth's share shall be used for the maintenance, welfare and the education of the minor.

(iii) The petitioner is permitted to invest the other $\frac{1}{2}$ of the sale proceeds of the minor's share, deposited in a fixed deposit of any Nationalised Bank which shall be renewed periodically till he attains the age



of majority.

(iv)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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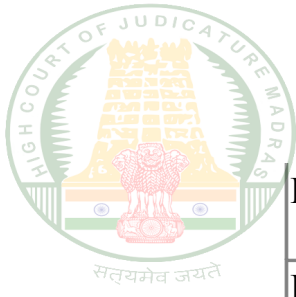
Index :Yes/No

Petitioner's witness:

P.W.1 – Mr.K.Padmavathi

Documents exhibited by the petitioner:

Exhibits	Documents
Ex.P1	Photocopy of the legal heirship certificate of Ms.P.Kanagavalli (Compared with the original)
Ex.P2	Photocopy of the birth certificate of my minor son P.S.Shaswanth (Compared with the original)
Ex.P3	Photocopy of the release deed dated 14.12.2018 executed in favour of Mr.P.Senthil Murugan by his brothers Mr.P.Moorthy and Mr.P.Madasamy (Compared with the original)
Ex.P4	Computer generated encumbrance certificate for the period from 27.12.1993 to 25.06.2024.
Ex.P5	Downloaded copy of the guideline value of the property mentioned in the petition.
Ex.P6	Photocopy of family card (Compared with the original)



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Ex.P7	Computer generated death certificate of Mr.Senthil Murugan.
Ex.P8	Computer generated legal heirship certificate of Mr.P.Senthil Murugan.
Ex.P9	Bank account statement obtained from Indian Bank to show that advance of Rs.1,00,000/- received.
Ex.P10	Certificate under Section 65B of the Indian Evidence Act, 1872.

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