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O.P.No.685 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.02.2025**

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

O.P.No.685 of 2024

Mrs.Sumitha Paul

...Petitioner

vs.

Nil

...Respondent

PRAYER: Original Petition filed under Section 3, 7 to 10 and 29 of Guardians and Wards Act 1890 read with Order XXI Rule 2 & 3 of Original Side Rules and Clause XVII of Letters Patent Act, prays that this Hon'ble Court may be pleased to:

- a. Appoint the petitioner Mrs.Sumitha Paul as the Guardian of the person and property of the Minor viz., A.Haroun Aldin.
- b. Grant permission to the petitioner Mrs.Sumitha Paul to sell the 7/8 share of the minor A.Haroun Aldin of his share of the deceased father S.Alaudhin and described in the schedule property.
- c. Permit the petitioner to invest or deposit the said amounts in any nationalized bank or in any gainful mode or manner which secure the interest of the minor child A.Haroun Aldin until he attains the age of majority and
- d. Permit the petitioner Mrs.Sumitha Paul to withdraw the interest



amount accrued on the share amount of the Minor agreed to be deposited in the bank for education and maintenance of the Minor child.

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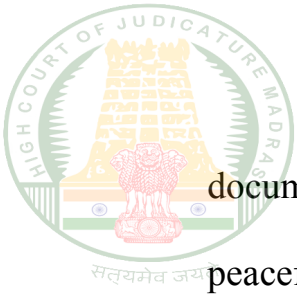
e. And pass such other order(s) as this Honourable Court may deem fit, proper and necessary under the circumstances of the case and thus render justice.

For Petitioner : Mr.K.Bommuraj

ORDER

By this petition, the mother of the minor, A.Haroun Aldin, seeks to appoint the petitioner as the Guardian for person and properties of the minor and to grant permission to sell the minor's share in the property belonging to the petitioner and her husband, S.Alaudhin. The petitioner and her husband begotten a son, A.Haroun Aldin. The said S.Alaudhin died intestate on 10.08.2022 leaving behind his wife, the petitioner and his son, as his surviving legal heirs. The parents of the deceased predeceased him. The said legal heirs are entitled to their respective shares in the share of the deceased in the petition mentioned property.

2. The petitioner asserts that the above-mentioned property was purchased by the petitioner, and her husband under a sale deed vide



document No.12782 of 2018 dated 05.09.2018. During his lifetime, he was in peaceful possession and enjoyment of the said land. As the said S.Alaudhin died intestate on 10.08.2022, the legal heirs of him are entitled to their respective shares in the deceased share in the said properties including the minor. The petitioner entered into sale agreement on 27.07.2024. It is necessary to appoint the petitioner as guardian for the minor and to permit the sale of the share of the Minor, A.Haroun Aldin 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, 12 documents listed at the foot of this order were exhibited as Ex.P1 to P12. The birth certificate of the minor has been marked as Ex.P1, which discloses that he was born on 08.01.2009. The death certificates of the deceased and his parents as Ex.P5, Ex.P3 and Ex.P4. The legal heir certificate of deceased as Ex.P6. As evidence of the title of petitioner and S.Alaudhin, the registered Sale Deeds dated 05.09.2018 as Ex.P2. The agreement of sale has been marked as Ex.P7.

4. The assertions in the petition have been duly proved by adducing



oral evidence supported by documents. In these circumstances, the petitioner is entitled to the relief.

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5. Based on the evidence adduced by the petitioner, the petitioner is entitled to the relief claimed on the following terms:

(i) The petitioner is appointed as guardian for person and property of the minor A.Haroun Aldin.

(ii) She is permitted to sell the share of the minor. A.Haroun Aldin in the deceased share in the properties more fully described in the petition schedule.

(iii) The sale proceeds to the share of A.Haroun Aldin shall be deposited in a fixed deposit of any Nationalised Bank which shall be renewed periodically till he attains the age of majority.

(iv) The petitioner is permitted to withdraw the interest amount accrued on the share amount of the minor for education and maintenance of the minor child.



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(v) 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

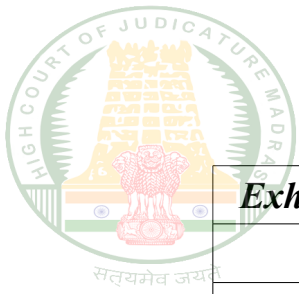
Petitioner's witness:

P.W.1 - Mrs.Sumitha Paul

P.W.2 – Mr.C.Parthipan

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of the birth certificate of Mr.A.Haroun Aldin (Compared with the original)
Ex.P2	Photocopy of the sale deed dated 05.09.2018 executed in favour of Mr.A.Sumitha Paul and S.Alaudeen (Compared with the original)
Ex.P3	Photocopy of the death certificate of Mr.Sahul Hameed. (Compared with the original)
Ex.P4	Photocopy of the computer generated death certificate of Mrs.Rahmath Bi (Compared with the original)
Ex.P5	Photocopy of the computer generated death certificate of



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<i>Exhibits</i>	<i>Documents</i>
	Mrs.Alaudhin (Compared with the original)
Ex.P6	Photocopy of the computer generated legal heir certificate of Mr.Alaudhin (Compared with the original)
Ex.P7	Photocopy of the sale agreement dated 27.07.2024 executed between me (the petitioner) and Mr.C.Parthiban (Compared with the original)
Ex.P8	Photocopy of my family Card (Compared with the original)
Ex.P9	Photocopy of my Aadhar Card (Compared with the original)
Ex.P10	Photocopy of the Aadhar Card of my Minor Son Mr.Haroun Aldin (Compared with the original)
Ex.P11	Original bonafide certificate issued by Annai Vailankanni Matriculation Higher Secondary School to my Minor Son Mr.A.Haroun Aldin stating that he is the student of XI std, commerce group for the academic year 2024-25.
Ex.P12	Certificate under Section 65 B of the Indian Evidence Act, 1872.
Ex.P13	Photocopy of my Aadhaar Card (Compared with the original)

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