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O.P.No.737 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20.03.2025**

CORAM

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

O.P.No.737 of 2024

Mr.Dhanasekar

...Petitioner

PRAYER: Original Petition filed under Section 8 (2) of the Hindu Minority and Guardianship Act 1956 read with Order XXI Rule 2 & 3 of O.S.Rules, praying that the Hon'ble Court may be pleased to permit the petitioner to sell his minor son's 1/6th undivided share of the property in the schedule for the education expenses of his minor son and for the marriage expenses of the petitioner's daughter and to permit the petitioner to deposit the sale proceeds the minor's share in the name of the minor, until/unless the minor attaining the age of eighteen.

For Petitioner : Mr.J.Suresh

ORDER

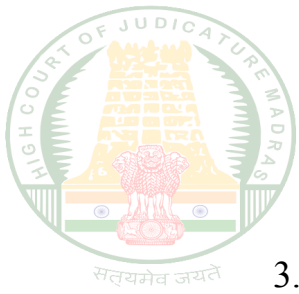
By this petition, the father and natural guardian of the Minor.D.S.Yashwant who was born on 11.08.2008, seeks permission to deal with the minor's share of the property belonging himself and his late wife C.R.Dhanalakshmi, the petitioner was married to



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late.Mrs.C.R.Dhanalakshmi and had begotten two children, Ms.Varshini and Minor.D.S.Yashwant. The said Mrs.C.R.Dhanalakshmi died intestate on 30.03.2021 leaving behind her husband who is the petitioner, her daughter and the above said Minor son D.S.Yashwant as her sole surviving legal heirs. The petitioner is entitled to an undivided share of $\frac{4}{6}^{\text{th}}$ in the property along with the daughter Varshini and the above said Minor.D.S.Yashwant each holding $\frac{1}{6}^{\text{th}}$ of the undivided share individually .

2. The petitioner asserts that the above-mentioned property was purchased by himself and his predeceased wife Late.Mrs.C.R.Dhanalakshmi from Mrs. Hemalatha under document No.3911 of 2016 dated 02.11.2016. As the said Mrs.C.R.Dhanalakshmi died intestate on 30.03.2021, the legal heirs of her are entitled to her in the property. On distributing the shares of late.Mrs.C.R.Dhanalakshmi among her legal heirs equally it turns out that, the petitioner holds an undivided share of $\frac{4}{6}^{\text{th}}$ in the schedule property followed by the her daughter Varshini and her son Minor.D.S.Yashwant each holding an undivided share of $\frac{1}{6}^{\text{th}}$ in the schedule property individually.

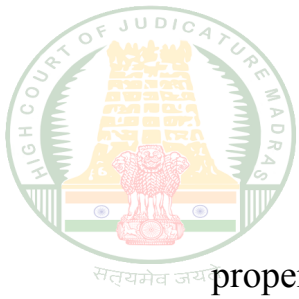


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3. In order to establish entitlement to the relief claimed, the petitioner adduced evidence by examining himself as PW1. In the course of the examination in chief of PW1, 7 documents listed at the foot of this order were exhibited as Ex.P1 to P7. The birth certificate of Minor.D.S.Yashwant has been marked as ExP1, discloses that he was born on 11.08.2008. The death certificate of the mother late.Mrs.C.R.Dhanalakshmi of the minor as Ex.P3. The legal heir certificate of late.Mrs.C.R.Dhanalakshmi as Ex.P4. As evidence of the title of the property has been shared by the petitioner and late.Mrs.C.R.Dhanalakshmi, the registered Sale Deed dated 02.11.2016 as Ex.P2. The agreement of sale has been marked as Ex.P5.

4. On Perusal of Ex.P1 it had been bought out that the petitioner is the father of the said Minor.D.E.Yashwant. On conjoint reading of Ex.P2 and Ex.P4 its clear that the above said Minor.D.S.Yashwant is entitled to undivided share of 1/6th of the schedule property.

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



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(i) The petitioner is permitted to sell the minor.D.S.Yashwant share of property is more fully described in the schedule.

(ii) The sale proceeds to the share of minor.D.S.Yashwant to be deposited in any Nationalised Bank which shall be renewed periodically till he attains the age of majority. The same shall be used for the educational purpose and the welfare of the minor.

(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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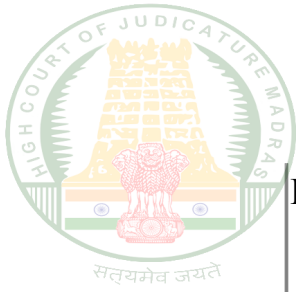
Index :Yes/No

Petitioner's witness:

P.W.1 – Mr.Dhanasekar

Documents exhibited by the petitioners:

Exhibits	Documents
Ex.P1	Computer generated birth certificate of minor D.S.Yashwant.



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Ex.P2	Certified copy of the sale deed dated 02.11.2016 executed in favour of Mr.N.Dhanasekar and Mrs.C.R.Dhanalakshmi (Compared with the original)
Ex.P3	Computer generated death certificate of Mrs.C.R.Dhanalakshmi.
Ex.P4	Computer generated legalheirship certificate of Mrs.C.R.Dhanalakshmi.
Ex.P5	Photocopy of the sale agreement dated 26.07.2024. (Compared with the original).
Ex.P6	Declaration of my willingness to act as guardian to the minor.
Ex.P7	Affidavit under Section 65 B of the Indian Evidence Act, 1872.

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