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O.P.No.833 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10.03.2025**

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

O.P.No.833 of 2024

Smt.P.Kavitha

...Petitioner

PRAYER: Original Petition filed under Section 8(2)(a) of the Hindu Minority and Guardianship Act, 1956 read with Order XXI Rule 2 and 3 of O.S.Rules, to permit the petitioner to sell the minor 1/3rd undivided share by executing Sale Deeds for the scheduled mentioned property on behalf of the minor child to any third party/es and permit the petitioner as the mother and natural guardian to invest the sale proceeds of the minor's share in any one of the Nationalised Bank and permit the petitioner to withdraw the accrued interest from the deposit bank for uplift and lively hood of the minor child till the minor attain majority and grant further suitable relief.

For Petitioners : Mr.R.Ramesh

ORDER

By this petition, the mother and natural guardian of the minor, P.Varshita seeks permission to deal with the minor's share of the property belonging to one Mr.P.Palani, who was married to the petitioner and begotten



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two children, Ms.P.Keerthana and P.Varshita. The said P.Palani died intestate on 01.06.2024 leaving behind his wife, the petitioner, his two daughters including the minor child Ms.P.Varshita and his mother as his surviving legal heirs. The mother of the deceased released her share in the schedule property in favour of the petitioner and her two daughters. The petitioner and her two daughters including the Minor.P.Varshita, each to be entitled to 1/3rd of the undivided share in the property mentioned in the schedule.

2. The petitioner asserts that the above-mentioned property being vacant house site was purchased by her husband late.P.Palani from Mrs.K.Lakshmi under document No.1520 of 2023 dated 28.01.2023, marked as the Ex.P1. During his lifetime, the deceased developed the property and constructed six flats in above mentioned land. He later sold three flats, leaving behind rest of the three flats which are the properties mentioned in the schedule. As the said Mr.P.Palani died intestate on 01.06.2024, his legal heirs as mentioned in the legal heirship certificate which is marked as Ex.P4 are entitled to 1/4th undivided share in the said property including the minor. The mother of the deceased Mrs.P.Saroja released her 1/4th share in schedule property in favour of the petitioner and her daughters which includes the minor by executing the



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release deed under document No.12892 of 2024 dated 26.07.2024 which is marked as Ex.P2. Thereby leaving the petitioner and her two daughters including the said Minor.Ms.P.Varshita, to be entitled to 1/3rd of the undivided share in the property mentioned in the schedule individually.

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, 7 documents listed at the foot of this order were exhibited as Ex.P1 to P7. The birth certificate of Minor.P.Varshita has been marked as Ex.P5, discloses that she was born on 08.04.2011. The death certificate of the father of the minor late.P.Palani as Ex.P3. The legal heir certificate of late.P.Palani as Ex.P3. As evidence of the title of late Mr.P.Palani, the registered Sale Deed dated on 28.01.2023 as Ex.P1.

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.Varshita's share of property is more fully described in the schedule.
- (ii) The sale proceeds to the share of P.Varshita shall be shall be



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deposited in any Nationalised Bank and the petitioner is permitted to withdraw the accrued interest from that deposit & utilize the same for the benefit of the said minor.

(iii) File before this Court the accounts as regards to the transaction pursuant to this order and produce the copy of the deposits 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.P.Kavitha

Documents exhibited by the petitioners:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Certified copy of the registered sale deed dated 28.01.2023 executed in favour of Mr.P.Palani (Compared with the original)
Ex.P2	Certified copy of the registered release deed dated 26.07.2024 executed in my favour and my two daughters namely Ms.P.Keerthana and minor P.Varshitha represented by myself as her natural guardian (Compared with the original)
Ex.P3	Computer generated death certificate of Mr.Palani.
Ex.P4	Computer generated legal heirship certificate of Mr.Palani.



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<i>Exhibits</i>	<i>Documents</i>
Ex.P5	Computer generated Birth certificate of my minor daughter P.Varshitha.
Ex.P6	Certificate under Section 65 B of the Indian Evidence Act, 1872.
Ex.P7	Photocopy of my Aadhaar Card (Compared with the original

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