



O.P.No.866 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 20.02.2025

CORAM

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**
O.P.No.866 of 2024

Mrs.B.Shameem

... Petitioner

PRAYER: Original Petition filed under Section 3, 7 and 29 of the Guardian and Ward Act, VII of 1890 under Order XXI Rules 2 and 3 of the Original Side Rules and Clause XVII of the Letters Patent Act, 1865 for praying a) to declare the petitioner as the Guardian for person and properties of the minors (i)S.Mohammed Baba Ayaz and (ii) S.Daneen Farha and b) to permit the petitioner to sell the minors 17/36 & 17/72 undivided share owing to the minors in the schedule mentioned properties to the intending purchasers for valuable consideration and appropriate orders may be granted to deposit the sale proceedings owing to the minors into a fixed deposit with any of the nationalized banks in the name of the minors and the petitioner may be permitted to withdraw the accrued interest once in three months and for such other relief.

For Petitioner : Mr.A.Mohamed Mushtak

ORDER

By this petition, the mother of the minors, S.Mohammed Baba Ayaz



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and S.Daneen Farha, seeks for the declaration of the petitioner as the

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Guardian for person and properties of the minors and for permission to sell the minors share in the property belonging to one Babajan Shaik, who was married to the petitioner and begotten two children, viz., S.Mohammed Baba Ayaz and S.Daneen Farha. The said Babajan Shaik died intestate on 08.10.2017 leaving behind his wife, the petitioner, his two minor children and his mother as his surviving legal heirs. The said legal heirs are entitled to their respective shares in the petition mentioned properties.

2. The petitioner asserts that the above-mentioned properties was purchased by late Babajan Shaik under two sale deeds vide documents No.6103 of 2015 dated 04.09.2015 and No.4700 of 2009 dated 10.11.2009. During his lifetime, he was in peaceful possession and enjoyment of the said land. As the said Babajan Shaik died intestate on 08.10.2017, the legal heirs of him are entitled to their respective shares in the said properties including the minors. Further, the brothers of the deceased relinquished their rights in the share of the properties. The minors are under the custody of the petitioner. The petitioner and mother of the deceased entered into sale agreement for a sale consideration of Rs.51,34,000/- for both properties. It is necessary to declare the petitioner as guardian for the



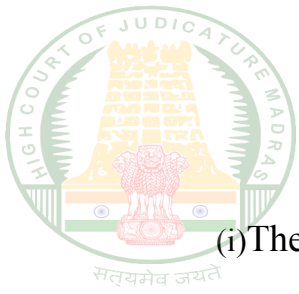
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minors and to permit the sale of the shares of the Minors, S.Mohammed
Baba Ayaz and S.Daneen Farha for their benefit.

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 Aadhar card of the minor children have been marked as Ex.P3 and Ex.P4 which discloses that they were born on 07.12.2008 and 25.11.2011. The death certificate of the father of the minors as Ex.P8. The legal heir certificate of late.Babajan Shaik as Ex.P9. As evidence of the title of late Babajan Shaik, the registered Sale Deeds dated 04.09.2015 and 10.11.2009 as Ex.P2 and Ex.P1. The agreements of sale have been marked as Ex.P5 and Ex.P6.

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.

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 declared as guardian for person and properties of the minors S.Mohammed Baba Ayaz and S.Daneen Farha.

(ii) She is permitted to sell the shares of the minors. S.Mohammed Baba Ayaz and S.Daneen Farha in the properties more fully described in the petition schedule.

(ii) The sale proceeds to the shares of S.Mohammed Baba Ayaz and S.Daneen Farha shall be deposited in a fixed deposit of any Nationalised Bank which shall be renewed periodically till they attain the age of majority.

(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

Speaking order: Yes/ No

Neutral Citations: Yes/ No



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Petitioner's witness:

WEB COPY P.W.1 - Mrs.B.Shameem

Documents exhibited by the petitioner:

<i>Exhibits</i>	<i>Documents</i>
Ex.P1	Photocopy of the sale deed dated 10.11.2009 executed in favour of Mr.S.Babajan (Compared with the original)
Ex.P2	Photocopy of the sale deed dated 04.09.2015 executed in favour of Mr.S.Babajan (Compared with the original)
Ex.P3	Photocopy of the Aadhar Card of minor son Mr.Mohammed Baba Ayaz S (Compared with the original)
Ex.P4	Photocopy of the Aadhar Card of PW-1's minor Daughter Ms.Daneen Farha (Compared with the original)
Ex.P5	Original sale agreement dated 18.06.2024 executed by PW-1 and Mrs.Shaik Shareefa in favour of Mr.L.Sharafath Ali and Mr.L.Sadath Ali.
Ex.P6	Original Sale Agreement dated 29.06.2024 executed by PW-1 and Mrs.Shaik Shareefa in favour of Mr.Shaik Noor Mohammed.
Ex.P7	Declaration of PW-1's willingness to act as guardian for minor son S.Mohammed Baba Ayaz and minor daughter Mrs.Daneen Farha
Ex.P8	Computer generated death certificate of Mr.Babajan Shaik
Ex.P9	Photocopy of the legal heirship certificate of Mr.Babajan (Compared with the original)
Ex.P10	Screenshot of the guideline value of the A schedule property.
Ex.P11	Screenshot of the guideline value of the B Schedule property.
Ex.P12	Certificate under Section 65B of the Indian Evidence Act, 1872.

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