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OP No. 447 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-02-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

OP No. 447 of 2024

Seema Aziz Paniwala

W/o.Late Mohammed Aslam Omar,

No.1, Normanna Avenue,

Toronto, Ontario M6C 1H1,

Rep.by POA Faheem Moosa.

..Petitioner(s)

Vs

No Respondent

Nil

..Respondent(s)

PRAYER: The Original Petition has been filed under Sections 3, 7 to 10 and 29 of the Guardians and Wards Act read with Order XXI Rule 2 and 3 of Original Side Rules to

a) appoint the petitioner as the legal guardian of the person and property of the minor children;

b) permit the petitioner to develop the property through the developer, M/s.ARC Developers the minor children's share described in Schedule B and sell the same at the best possible market price; and further

to permit the petitioner to repatriate the sale consideration for the health



and education of the minors to Canada.

For Petitioner(s): George Cheriyan

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ORDER

This petition has been filed under Sections 3, 7 to 10 and 29 of the Guardians and Wards Act read with Order XXI Rule 2 and 3 of Original Side Rules to appoint the petitioner as the legal guardian of the person and property of the minor children, to permit the petitioner to develop the property through the developer, M/s.ARC Developers the minor children's share described in Schedule B and sell the same at the best possible market price and further to permit the petitioner to repatriate the sale consideration for the health and education of the minors to Canada.

2. According to the petitioner, she is the mother and natural guardian of the minor children namely Suleimaan Aziz Omar, aged about 16 years and Nargis Aslam Omar, aged about 13 years. The petitioner, her elder son Aalim Aslam Omar and the above said minor children are the absolute owners of 16.66% of undivided share in the property described in the Schedule 'A' hereunder, having obtained by way of Oral Hiba dated 10.01.2017, which was recorded on 12.01.2017, from Akbar Omar, the father-in-law of the petitioner and the grandfather of the minor children. As the residential house described in Item I of Schedule A is very old and dilapidated condition, the petitioner for



herself and on behalf of her minor children along with other co-owners of the Schedule A property, had identified M/s. ARC Developers, a reputed developer and entered into an agreement dated 10.10.2023 to construct a modern residential apartments after demolition of the existing residential house described in Item 1 of the Schedule A property and they have also executed Power of Attorney in favour of the said M/s. ARC developers.

2.1. The petitioner and her minor children are citizens of Canada and are permanently residing in Canada. The petitioner's husband Mohamed Aslam Omar suddenly died on 15.02.2014 in Canada leaving behind the petitioner and her children. The petitioner is the sole breadwinner of her family. In order to take care of the health and education of the her minor children, she requires to dispose of the petitioner and her minor children's share in the Schedule 'A' property. The 1st minor child Suleimaan Aziz Omar's 1033 sq. ft. share is more fully described in Item 1 of Schedule 'B' and similarly, the 2nd minor child Nargis Aslam Omar's 1033 sq ft. share is more fully described in Item 2 of Schedule B. The estimated marked price of minor children's share is about Rs.1,55,00,000/- each. Therefore, the petitioner, being a citizen and resident of Canada, has filed this petition through her Power of Attorney Agent Faheem Moosa, seeking permission to sell the minor children's share in the petition-mentioned property for the benefit of the minor children.



3. After filing of this petition, the matter was posted for examination of witnesses. On the side of the petitioner, PW1 and PW2 were examined and Ex.P.1 to Ex.P.8 were marked.

4. This Court also perused the evidence and the entire records.

5. As per the petitioner side evidences and the documents, they revealed that the petitioner and the deceased Mohamed Aslam Omar are the husband and wife and they are the parents of one Aalim Aslam Omar and the minor children namely Suleimaan Aziz Omar, aged about 16 years and Nargis Aslam Omar, aged about 13 years. The husband of the petitioner Mohamed Aslam Omar died on 15.02.2014 in Canada leaving behind the petitioner and her children and after the demise of her husband, the petitioner is the sole bread winner of her family. It is also seen that the petitioner and her children have obtained 16.66% of undivided share in the property described in the Schedule 'A' as 'gift' executed by the father-in-law of the petitioner. The petitioner, being the mother of the minor children, is the only care-taker of her children. Since the residential house described in Item 1 of the Schedule 'A' property is old and dilapidated condition, the petitioner along with her minor children and other co-owners have entered into an agreement dated 10.10.2023 with one M/s. ARC Developers to develop the property. In order to prove the same, on the side of the petitioner, an authorised representative of M/s. ARC Developers has been examined as 'PW2'.



6. The minor children are now under the care and custody of the petitioner. The father of the minor children is no more and the petitioner being the mother, is the only care-taker of the minor children and she has no any adverse interest against the minor children and she needs the minor children's share in the sale proceeds of the property for the future expenses of the minor children. Since the husband of the petitioner died, it is quite possible for the petitioner to find it difficult to maintain herself and the minor children. Therefore, she has decided to sell the petition mentioned property in order to get minor children's share in the sale proceeds for the future maintenance and interest of the minor children, for which she seeks permission of this Court and requested to appoint her as 'guardian' of the minor children. Therefore, in view of the above, the petitioner is entitled to be appointed as 'guardian' of the minor children and to sell the minor children's share in the schedule property for the interest of the minor children.

7. With the above said observations, this **original petition is allowed on the following terms:**

(i) The petitioner is appointed as 'guardian' of the minor children namely Suleimaan Aziz Omar, aged about 16 years and Nargis Aslam Omar, aged about 13 years;



(ii) The petitioner is permitted to develop the property in respect of the shares of the minor children described in Schedule B through the developer M/s. ARC Developers and to sell the same at the best possible market price.

(iii) The petitioner is permitted to deposit the sale consideration of the minor children into a nationalized bank on interest bearing deposits till they attaining majority; and

(iii) The minor children are granted leave to apply for release of the fixed deposit upon attaining the age of majority.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MJS

**APPENDIX:****List of Petitioner side Witnesses:**

PW1 : Mrs. Faheem Moosa
PW2 : Mr. A. Naveen Kumar

List of Petitioner side Documents:

Exhibit No.	Date	Description of Documents.
Ex.P.1.	10.01.2017	Photocopy of the Gift (Hib) duly recorded by Akbar Omar.
Ex.P.2	15.12.2023	Original Power of Attorney executed by Seema Aziz Paniwala, in favour of PW1.
Ex.P.3	17.06.2025	Computer generated building permission
Ex.P.4.	02.06.2025	Downloaded copy of the CMDA planning permission.
Ex.P.5	28.06.2025	Downloaded copy of the guideline value of the property as on 28.06.2025.
Ex.P.6	28.06.2025	Downloaded copy of the composite property value as on 28.06.2025.
Ex.P.7	18.08.2025	Original authorisation letter.
Ex.P.8	-	Certificate under Section 63(4) of B.S.A.

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