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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-11-2026

CORAM

THE HON'BLE MR.JUSTICE P.B. BALAJI

OP No. 357 of 2026

CNR: {HCMA010479132026}

S. Usha

Case QR

..Petitioner(s)

Vs

No Respondent
Nil

..Respondent(s)

1. To appoint the petitioner as the Manager for maintaining the Assets of S.Usha the said Mr.S.Vinoth Intellectually Disabled person, 2. to grant permission to the petitioner to sell the 1/3rd share of S.Vinoth Intellectually disabled person, in schedule mentioned property to Mr.N.P.Kameshwaran or his nominees for the sale consideration of 12,00,000/- for the benefit of the S.Vinoth in the Scheduled property is to be sold for its value and deposit the sale consideration of S.Vinoth share in a Nationalized Bank on an interest bearing fixed deposit as directed by this Hon'ble Court.

For Petitioner(s): Mr.V. Surya Sankar
T.Dhakna

ORDER

Though the matter has been referred back to Court by the learned Master, in view of the interpretation of the document styled as a settlement deed and raising the issue whether the said document as settlement deed or a Will, after hearing the learned counsel for the petitioner and also going through the

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document and the other documents filed along with the original petition, I find that the document dated 02.06.1961, which is styled as a settlement deed, the executant has reserved a life interest for himself, the wife and thereafter, the life interest of his sons and vested remainder has been given to the grandsons born through the sons.

2.One of the grandsons, S.Vinoth is an intellectually disabled person. The sons who were alive at the time of execution of settlement deed and also after born son are not alive as on date. Today, all the grandsons have proposed to sell the property. However, since the grandson, S.Vinoth through the son, N.Somasundaram is intellectually disabled, the petitioner has filed the instant original petition, seeking permission to sell the share of the said S.Vinoth for total sale consideration of Rs.12,00,000/-. The share of S.Vinoth is 1/3 and the remaining 2/3rd share has already been sold to N.P.Kameshwaran and in view of the requirement to obtain necessary permission from this Court, the 1/3rd share of the intellectually disabled, S.Vinoth has not been dealt with.

3.It is also stated in the petition that none of the female heirs are opposing or contesting the registered settlement deed dated 02.06.1961. The said settlement deed has been acted upon. I do not find any right of revocation retained by the settlor in the said document. Mere retaining of life interest for himself, his wife and his sons, will not automatically mean that the said

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document has to be treated as a Will and not a settlement deed. The said document possesses all the characteristics of the settlement deed and as held by the Hon'ble Supreme Court in *P.K.Mohan Ram Vs. B.N.Ananthachary and others*, reported in *(2010) 4 SCC 161*, the document can be construed only a settlement deed and not a Will. In the light of the above and also considering that the document has been acted upon by the remaining 2/3rd co-owners, I do not find any impediment for granting permission.

4.In fact, the petitioner has already been appointed as guardian for the intellectually disabled person, S.Vinoth by proceedings dated 28.10.2025 under the National Trust Act, 1999. A copy of the said order has also been filed. The certificate of disability of S.Vinoth is also filed along with the OP. A copy of the agreement dated 04.09.2025, under which the property has been agreed to be sold for a total sale consideration of Rs.36,00,000/-, is also exhibited. In the light of the above, I do not see any prejudice caused to the interest of the intellectually disability person, by permitting the competent guardian to deal with the 1/3rd share of the intellectually disability person, S.Vinoth. The sale consideration of Rs.12,00,000/- will be deposited in the name of minor represented by the guardian/the petitioner herein, with the guardian being entitled to withdraw interest once in every three months and the said interest component shall be utilised for the upkeep and maintenance of the intellectually disability person, S.Vinoth.

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5.In fine, this Original Petition is allowed, with the above terms in para No.4. No costs.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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P.B.BALAJI, J.

ATA

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