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OP No. 349 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-01-2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

OP No. 349 of 2025

T.Dawlath Nisha

W/o.Late M.A.Thameem Sikandar,

No.13/11, Railway Border Road,

Kodambakkam,

Chennai - 600 024.

..Petitioner(s)

Vs

1. M.A.Jaffar Jinnah and 3 Others

S/o.Late Mr.S.V.Mohamed Abubacker,

No.24/6, Gulam Mohamed Mohideen Street,

Thousand Lights, Chennai - 600 006.

2. M.A.Shahul Hameed

S/o.Late Mr.S.V.Mohamed Abubacker,

No.13/11, Railway Border Road,

Kodambakkam,

Chennai - 600 024.

3. Zareena Banu

W/o.Mr.Sowkathali,

D/o.Late Mr.S.V.Mohamed Abubacker,

No.11, Sri Krishnapuram Street,

Royapettah, Chennai - 600 014.



4. M.A.Khaleelullah

S/o.Late Mr.S.V.Mohamed Abubacker,
No.13/11, Railway Border Road,
Kodambakkam,
Chennai - 600 024.

..Respondent(s)

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

a) Declare the petitioner herein as the guardian of the person and property of minors (1) Minor.T.Shameera Rahima, aged about 15 years 8 months (DOB 02.08.2009) and (2) Minor.T.Mohammed Nawaz, aged about 10 years 10 months (DOB 22.06.2014);

b) Granting permission to the petitioner to sell the share of the above named two minors (1) Minor T.Shameera Rahima and (2) Minor T.Mohammed Nawaz, along with that of the petitioner in the property described in the schedule hereto to the person who have entered into an agreement with the petitioner in respect thereof for the price agreed upon;

c) giving directions to the petitioner to deposit the sale proceeds of her minor children shares proportionally entitled to in any nationalized bank situated in the city of chennai to lie until the minors attain majority and to enable the petitioner herein to receive the interest accruing thereon once in three months so that the same could be utilised for the bringing up of and education of the minors; and

d) granting such further or other reliefs to the petitioner as would be deemed appropriate in the circumstances of the case.



For Petitioner(s):

M/s.V.N.A.Ghouse Gani

For Respondent(s):

M/s.T.J.Kulasekar

ORDER

This petition has been filed under Section 3, 7 to 10 and 29 of the Guardians and Wards Act, 1890 read with Order XXI Rule 2 and 3 of the Original Side Rules to declare the petitioner herein as the guardian of the person and property of minors (1) Minor.T.Shameera Rahima, aged about 15 years 8 months (DOB 02.08.2009) and (2) Minor.T.Mohammed Nawaz, aged about 10 years 10 months (DOB 22.06.2014); to grant permission to the petitioner to sell the share of the above named two minors (1) Minor T.Shameera Rahima and (2) Minor T.Mohammed Nawaz, along with that of the petitioner in the property described in the schedule hereto to the person who have entered into an agreement with the petitioner in respect thereof for the price agreed upon; to give directions to the petitioner to deposit the sale proceeds of her minor children shares proportionally entitled to in any nationalized bank situated in the city of chennai to lie until the minors attain majority and to enable the petitioner herein to receive the interest accruing thereon once in three months so that the same could be utilised for the bringing up of and education of the minors; and to pass such other orders.



2. According to the petitioner, she is the widow. Due to the wedlock between the petitioner and her husband, a female child namely T. Shameera Rahima, born on 02.08.2009 and a male child namely T. Mohammed Nawa, born on 22.06.2014. Her husband Mr. M.A. Thameem Sikandar, son of Late S.V. Mohamed Abubacker, died on 03.09.2020, leaving behind his wife and children. The parents of the deceased M.A. Thameem Sikandar, predeceased him. The father of the deceased namely S.V. Mohammed Abubacker, during his lifetime, had purchased the house, ground and premises more fully described in the schedule and he was in sole and absolute ownership, possession and uninterrupted enjoyment of the said property and he settled the said property to and in favour of his wife Mrs. Ayisha Ghani Bi under a Deed of Settlement dated 20.03.1986 and she was in sole and absolute ownership, possession and enjoyment of the property till her death. Thereafter, the said Mrs. Ayisha Ghani Bi, died intestate at Chennai on 17.05.2023 leaving behind her sons M.A Jaffar Jinnah, M.A. Shahul Hameed, M.A. Khaleelullah and her daughter Mrs. Zareena Banu. Her parents, her husband S.V. Mohamed Abubacker and her son M.A. Thameem Sikandar, predeceased her. Therefore, the said sons, daughter, who are the surviving legal heirs of the said Mrs. Ayisha Ghani Bi and the petitioner herein and her two minor children, who are the legal heirs of the deceased M.A. Thameem Sikandar, the predeceased son of Mrs. Ayisha Ghani Bi, are each entitled to the share in the estate of late Mrs. Ayisha Ghani Bi in the following manner:



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1. M.A. Jaffar Jinnah – Son – 2/9 share
 2. M.A. Shahul Hameed – Son – 2/9 share
 3. Mrs. Zareena Banju - Daughter – 1/9 share
 4. M.A. Khaleelullah – Son – 2/9 share
 5. T. Dowlath Nisha – Daughter-in-law,
 6. Minor T. Shameera Rahima – Grand daughter,
 7. Minor T. Mohammed Nawaz – Grand Son
- 2/ 9 share

2.1. The said legal heirs found difficult to maintain the schedule mentioned property in common and all of them, have decided to sell the same and apportioned their respective shares amongst them as stated supra and have entered into Agreement of Sale dated 21.04.2025 with M/s. Abdul Rahman Malkamali and Mr. Mangala Packir Mohamed for a total sum of Rs.1,50,00,000/-. Out of the total sale consideration of Rs.1,50,00,000/-, the petitioner herein and her two minor children are entitled to 2/9 share i.e., Rs.33,33,333/- and the same will be share amongst them as (a) Petitioner's share – Rs.4,16,665/-, (b) minor daughter T. Shameer Rahima – Rs.9,72,225/- and c) Minor son T. Mohammed Nawaz – Rs.19,44,443/-. For the betterment and benefit of the minor children, their respective shares will be deposited in their respective names in a Nationalized Bank till they attain majority. After the demise of the father of the minor children, they are under the care and custody

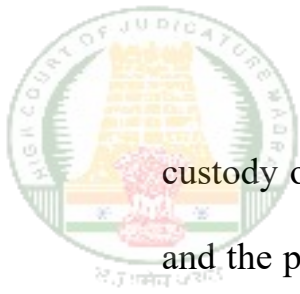


of their mother, the petitioner herein and she is a fit and proper person to be a guardian of the minor children. Therefore, the petitioner has filed this petition seeking permission to appoint herself as guardian for the person and property of the minor children and to grant permission to sell the minors' share in the petition-mentioned property and also to withdraw the interest amount periodically accumulates over the deposited amount to spend the same for the well being of the minor children. Since the respondents are also the co-owners of the petition premises, they have been included as parties in this petition and they have filed their respective affidavits and they have no objection for the sale of the minor children's share.

3. After filing of this petition, paper publication was effected and no any objection from any party. Thereafter, the matter was posted for examination of witnesses. On the side of the petitioner, PW1 was examined and Ex.P.1 to Ex.P.20 were marked.

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

5. As per the evidence of PW1 and the documents Ex.P.1. to Ex.P.20, they revealed that the petitioner and the deceased Mr. Thameem Sikandar are the husband and wife and they are the parents of the minor children. Ex.P.10 shows that the petitioner and the minor children are the legal heirs of the deceased Thameem Sikandar. The minor children are now under the care and



custody of the petitioner mother. 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 therefore, she can be appointed as guardian of the minor children in their best interest. Since the petitioner is the sole bread winner of her family and the husband of the petitioner, also 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 raise funds for the future maintenance and interest of the minor children. Therefore, in view of the above, the petitioner is entitled to sell the property for the interest of the minor.

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

(i) The petitioner is appointed as a 'guardian' of the person and property of the minor daughter T. Shameera Rahima and minor son T. Mohammed Nawaz.

(ii) The petitioner is permitted to sell the share of the minor children in the property described in the schedule.

(iii) The petitioner is permitted to deposit the share of minor children's sale consideration to the tune of Rs.9,72,225/- in the name of minor daughter T. Shameer Rahima and Rs.19,44,443/-in the name of Minor son T. Mohammed Nawaz into a Nationalized bank and



(iv) The petitioner is permitted to withdraw the interest amount periodically that accumulates over the deposited amount for the well-being of the minor children.

(v) Upon complying with the above directions, an affidavit of compliance shall be filed in the Registry.

(vi) 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. T. Dowlath Nisha

List of Petitioner side Documents:

Exhibit No.	Date	Description of Documents.
Ex.P.1.	20.03.1986	Original Settlement Deed executed in favour of Mrs. Ayesha Ghani Bi.
Ex.P.2	-	Computer generated Death Certificate of Mrs. Ayesha Ghani Bi.
Ex.P.3	-	Computer generated Legal Heirship



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		Certificate of Mrs. Ayesha Ghani Bi.
Ex.P.4.	-	Computer generated Death Certificate of Mr. S.V. Mohamed Abbubaker.
Ex.P.5	-	Computer generated Birth Certificate of Minor T. Shameera Rahima.
Ex.P.6	17.04.2025	Original bonafide Certificate issued to T. Shameera Rahima.
Ex.P.7	-	Computer generated Birth Certificate of Minor T. Mohammed Nawaz.
Ex.P.8	-	Bonafide School Certificate of Minor T. Mohammed Nawaz.
Ex.P.9	-	Computer generated Death Certificate of Mr. M.A. Thameem Sikandar.
Ex.P.10	-	Computer generated Legal Heir Certificate of Mr. Thameem Sikandar.
Ex.P.11	21.04.2025	Original Agreement of Sale.
Ex.P.12	-	Online Print out Certificate of extract from the Permanent Land Register of the schedule property.
Ex.P.13	12.02.2024	Online Print out of Property Tax receipt.
Ex.P.14	28.02.2025	Water Tax and Charges receipt in respect of the scheduled property.
Ex.P.15	-	Online print out of guideline value of the schedule property.
Ex.P.16	05.12.2024	Online printout of Encumbrance Certificate of schedule property.
Ex.P.17	-	Photocopy of PW1's Aadhar Card.



Ex.P.18	-	Photocopy of Aadhar card of PW1's daughter T. Shameera Rahima.
Ex.P.19	-	Photocopy of Aadhar Card of PW1's son T. Mohammed Nawaz.
Ex.P.20	-	Affidavit filed by PW1 under Section 63 of B.S.A.

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