

IN THE COURT OF THE DISTRICT JUDGE OF MANJERI  
PRESENT:- Smt.M.C.Hari Rani, B.Sc., LL.B., District Judge  
Saturday, the 6th day of August, 2005  
15th Shravana, 1927

ORIGINAL PETITION (GUARDIAN & WARDS) No.59/2004

BETWEEN:-

Vazhayil Kadeeja, w/o Late Ahammedkutty,  
Kattipparuthi amsom and desom, Tirur Taluk,  
Taluk, Malappuram District.

PETITIONER

- IN THE MATTER OF MINORS
- |                    |                 |                            |
|--------------------|-----------------|----------------------------|
| 1. FATHIMATH SUHRA | (AGED 14 YEARS) | DATE OF BIRTH - 28-06-1990 |
| 2. ABDURAHIMAN     | (AGED 13 YEARS) | DATE OF BIRTH - 28-07-1991 |
| 3. HABSATH         | (AGED 11 YEARS) | DATE OF BIRTH - 18-02-1993 |

This petition coming on the First day of August, 2005 for final hearing before me in the presence of Sri.P.U.Balagopal, advocate for the petitioner and having stood over to this day for consideration the court passed the following:-

#### ORDER

This petition is filed under S.7 of the Guardian and Wards Act to appoint the petitioner as guardian of the minors Fathimath Suhra, Abdurahiman and Habsath and for granting permission to sell the minors share in item Nos.1 to 3 of the petition schedule properties. Petitioner is the mother of the minors. She was married to Cherikundan Ahammedkutty, and above said minors were born in that wedlock. Item Nos.1 to 3 of the petition schedule properties were acquired by Ahammedkutty along with six other persons as per document

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Nos.31/1983, 32/1983 and 1909/1983. Ahammedkutty died on 27-11-1998 and his legal heirs are the petitioner, the minor children and four other children named Ayisha, Haleema, Bushra and Shamsudheen born to Ahammedkutty in his first wife. In item Nos.1 to 3 of the petition schedule properties, petitioner is entitled to get 9/504 shares, minors Fathimath Suhra and Habsath are entitled to 7/504 shares each, minor Abdurahiman is entitled to 14/504 shares, Ayisha, Haleema and Bushra are entitled to 7/504 shares each and Shamsudheen is entitled to get 14/504 shares. Apart from this, deceased Ahamedkutty was having title over item Nos.4 to 13 of the petition schedule properties as per registered document Nos.719/1972, 1312/1966, 1075/1977, 160/1990, 1359/94 and 1197/67 and those properties also devolved on his legal heirs. The minors are under the care and custody of the petitioner. The minors are not having any properties having income for their maintenance. It is not profitable to retain the fractional shares of the minors over item Nos.1 to 3. Attractive offers are there for the minors share. The petitioner is ready and willing to act as guardian of the minors. She has no interest adverse to that of the minors. No other guardian has been appointed to the person and property of the minors. Hence this petition.

2. Necessary publication has been made in the village office, court notice board and in the Mathrubhumi daily. Nobody has filed any objection.

3. Evidence consists of the chief affidavit filed by the petitioner and documents marked as Exts.A1 to A13.

4. Heard the petitioner's counsel.



5. The point for consideration is whether the petitioner can be appointed as guardian of the minors and whether the permission sought for can be granted.

6. THE POINT:- Petitioner filed chief affidavit stating as follows:- Petitioner is the mother of the minors. She was married to Cherikundan Ahammedkutty, and above said 3 minors were born in that wedlock. Ahammedkutty died on 27-11-1998 and his legal heirs are the petitioner, the minor 3 children and four other children named Ayisha, Haleema Bushra and Shamsudheen born to Ahammedkutty in his first wife. Ext.A1 is the death certificate of Ahammedkutty and Exts.A2 to A4 are the birth certificates showing the date of birth of the minors 1 to 3. Item Nos.1 to 3 of the petition schedule properties were acquired by Ahammedkutty along with six other persons as per registered documents, copy of which are marked as Exts.A5 to A7. Out of the above properties, petitioner is entitled to get 9/504 shares, minors Fathimath Suhra and Habsath are entitled to 7/504 shares each, minor Abdurahiman is entitled to 14/504 shares. Apart from this, deceased Ahammedkutty was having title over item Nos.4 to 13 of the petition schedule properties as per registered document Nos.719/1972, 1312/1966, 1075/1977, 160/1990, 1359/94 and 1197/67 and those properties also devolved on his legal heirs. Copy of the above said documents are marked as Exts.A8 to A13. The minors are under the care and custody of the petitioner. The minors are not having any properties having income for their maintenance. It is not profitable to retain the fractional shares of the minors over item Nos.1 to 3. Attractive offers are there for the minors share. The



petitioner is ready and willing to act as guardian of the minors. She has no interest adverse to that of the minors. No other guardian has been appointed to the person and property of the minors.

7. On going through the statements sworn in the chief affidavit filed by the petitioner and the documents marked as Exts. A1 to A13, I am convinced that the proposed sale is beneficial to the interest of the minors and the petitioner is the suitable person to be appointed as guardian of the minors. Hence, there is no reason to disallow the prayer in the petition. In the affidavit filed by the third party on 31-1-2005, it is averred that the property is worth Rs.5 lakhs per cent. Hence, Rs.5 lakhs per cent is accepted as the fair and reasonable sale consideration in respect of properties shown as item 1 to 3 in the schedule of this petition.

In the result, the petition is allowed and the petitioner is appointed as guardian of the minors Fathimath Suhra, Abdurahiman and Habsath and is permitted to sell the properties shown as item Nos. 1 to 3 in the petition schedule including the shares of the minors 1 to 3 for the maximum sale consideration and not less than Rs.5 lakhs per cent, to any one among the willing purchasers subject to the following conditions:-

1. The draft sale deed shall be produced in the court and approval shall be obtained;
2. The sale deed shall be executed within two months from this day and the petitioner will produce copy of the sale deed in



respect of item Nos.1 to 3 of the petition schedule properties within one month from the execution and registration of the document;

3. Out of the sale proceeds, minors share will be deposited in a nationalised bank in three separate deposits in accordance with their shares in the property under the profitable scheme in the name of the minors till they attain majority;
4. The deposit receipts shall be in the name of the District Judge, Mangeri account naming the three minors;
5. The deposit receipts shall be produced within two weeks from the date of registration of document; and
6. The petitioner will execute a bond for due compliance of the above conditions of the court within two weeks from today.

No costs.

Dictated to the Confidential Assistant, transcribed by her, corrected by me and pronounced in open court, this the 6th day of August, 2005.

Sd/-

DISTRICT JUDGE

EXHIBITS MARKED FOR THE PETITIONER'S SIDE:-

A1	01-12-1998	Death Certificate of Anammedkutti
A2	12-08-2004	Birth Certificate of Fathimat Suhara
A3	12-08-2004	Birth Certificate of Abdurahiman
A4	24-02-1995	Birth Certificate of Habsath