

**IN THE COURT OF THE ADDL. DISTRICT JUDGE-V,
KOTTAYAM**

Present:- Sri. Ranjith Krishnan N.,
Additional District Judge-V, Kottayam

Tuesday the 7th day of April, 2026
17th day of Chaithra, 1948

OP(G & W) No.145/2024

Petitioner:

Julie Jery, aged 42 years, W/o. Late Simon K.J,
Residing at Cherivupurayidom House,
Kuzhimattom P.O., Panachikkad Village,
Kottayam Taluk, Kottayam District, now residing
at Kochukinattin House, Achuthengu P.O.,
Kaikara Village, Chirayinkeezhu Taluk,
Thiruvananthapuram District-695304.

By Adv. Sajan A.Varghese, Adv. Archana C.Nair,
Adv. Khaleel Bin Rafeek, Adv.Amrutha Anil
Adv. Athira Prasad and Adv. Sarah Zachariah

Respondent : Nil

This Petition having been finally heard on 07.04.2026 and
the court on the same day passed the following:-

ORDER

This petition has been instituted under Sections 7 (1) and
29 of the Guardians and Wards Act, 1890 (hereinafter "the
G&W Act"). The petitioner, the mother of the minor Jaison S J,
seeks to be formally appointed as the guardian of the person

and property of her minor son. She also seeks permission of this Hon'ble Court to dispose of the minor's undivided share in the petition schedule property, as such conveyance is necessary for the welfare of the minor, including meeting his educational expenses and for securing a better living arrangement by purchasing property in Thiruvananthapuram District.

2. The petitioner's husband and the minor's father, Simon K.J, died intestate on 17.04.2011. Upon his death, the petitioner and the minor became his only legal heirs and succeeded to his estate. The petition schedule property, having an extent of 4.25 Ares in Panachikkad Village, originally belonged to the deceased's father, James Mani, who had acquired the same by Sale Deed No.320/1/1988 of Puthupally SRO. Upon the demise of James Mani and his wife Annamma James, the property devolved upon their sons, Simon K.J. and Jose K.J, each having an undivided $\frac{1}{2}$ share. After the death of Simon K.J., his share devolved upon the petitioner and the minor in accordance with the Indian Succession Act, 1925, whereby the minor is entitled to $\frac{2}{3}$ rd share in his father's share.

3. After the demise of Simon K.J, the petitioner has been acting as the natural guardian of the minor, who is presently studying in the 10th standard. The petitioner is in need of funds for the education and welfare of the minor and for purchasing a suitable property for their residence in Thiruvananthapuram District. The petitioner is running a provision store at Attingal and has limited financial means. The petition schedule property does not yield sufficient income and its retention is not beneficial to the minor. The legal heirs of late Jose K.J. have agreed to purchase the share of the petitioner and the minor. The petitioner undertakes that the minor's share of the sale proceeds will be safeguarded and utilised solely for his benefit, including by depositing the same in a nationalised bank.

4. The Court takes note that the respondents are listed as nil and no objector has appeared on public notice. The absence of an objector in this matter places a heightened and solemn duty upon the Court to transcend the role of a passive arbiter and assume the proactive role of a vigilant guardian to ensure the minor's interests are protected.

5. Based on the petition, the following points arise for determination:

1. Whether the petitioner is entitled to be appointed as the guardian of the person and property of the minor Jaison S.J?
2. Whether permission can be granted to the petitioner to dispose of the minor's undivided share in the petition schedule property and whether such sale is for the "necessity or evident advantage" of the minor?

6. Point No.1 & 2:- The first petitioner filed a proof affidavit reiterating the contentions in the petition. The evidence presented is analysed as follows:

- 1.Ext. A1: The death certificate of Simon K.J, confirming his passing on 17/04/2011.**
- 2.Ext. A2: The birth certificate of the minor, Jaison S.J, confirming his date of birth as 14/10/2009.**
- 3.Ext. A3: The family membership certificate issued by the Village Officer, Panachikadu, confirming the relationship with the deceased.**
- 4.Ext. A4: The death certificate of James, confirming his passing on 05/01/1992.**
- 5.Ext. A5: The death certificate of Annamma James, confirming her passing on 05/01/2004.**

- 6.Ext. A6: The family membership Certificate of James Mani issued by the Village Officer, Panachikadu, confirming the relationship with the deceased.**
- 7.Ext. A7: Certified copy of Sale deed No.320/1988.**
- 8.Ext. A8: Tax receipt of the petition schedule property.**
- 9.Ext. A9: Aadhaar card establishing the identity of the petitioner.**
- 10.Ext. A10: Aadhaar card establishing the identity of the minor.**

7. The fundamental principle underlying the Guardians and Wards Act, 1890 is the doctrine of *parens patriae*, obligating the Court to act as the supreme guardian. Section 7 of the Act allows the Court to appoint a guardian if it is for the welfare of the minor. Section 29 of the Act restricts a guardian appointed by the Court from selling the minor's immovable property without the previous permission of the Court, which may be granted only in cases of "necessity or for an evident advantage to the ward."

8. The petitioner has put forward a case that the petition schedule property originally belonged to James Mani as per Ext. A7 document. After the death of James Mani, the

property belonged and devolved upon his wife Annamma James and children Simon K. J. and Jose K. J. It is evident from Ext.A6 (Family Membership Certificate) that the legal heirs of James Mani are Annamma, Simon K. J and Jose K. J. It is evident from Exts.A4, A5 and A1 death certificates that James Mani, his wife Annamma James and Simon K. J are no more. It is also evident from A3 Family Membership Certificate that legal heirs of Jose K.J are the petitioner as well as the minor son aged 15. Admittedly, the parties are Christians governed by Indian Succession Act, 1925 and upon the death of Simon K.J., his 1/3 share in the petition schedule property devolved upon the petitioner. Jaison S.J., the minor being entitled to 2/3rd share. The petitioner has stated that she requires funds for the education and welfare of the minor and for the purchase of an immovable property for their residence, which would be in the best interest of the minor. It is further submitted that the legal heirs of late Jose K.J have agreed to purchase the share of the petitioner and the minor. One of the legal heirs of Jose K.J was examined as PW2 and has filed an affidavit expressing willingness to purchase the said share for an amount of ₹2,00,000/ per cent-. The petitioner has also produced the fair value notification dated 25.03.2023, which shows the fair value

of the property as ₹2,64,000. The petitioner has undertaken to deposit the minor's 2/3rd share of the sale proceeds in a nationalised bank until he attains majority.

9. The petitioner is the natural mother and guardian with whom the minor resides. There is no material on record to suggest any interest adverse to that of the minor. The sale is proposed to include the shares of the major petitioners as well, indicating a collective family decision.

10. Based on the foregoing analysis, this Court is satisfied that the petitioner has established a genuine case for selling the minor's undivided share in the petition schedule property. The proposed transaction is necessitated by the educational needs and overall welfare of the minor. Point No.1 and 2 are found in favour of the petitioners.

11. In the result, the petition is allowed subject to the following strict conditions:

- 1.The petitioner, Julie Jery is hereby declared and appointed as the guardian of the person and property of the minor, Jaison S.J.*
- 2.Permission is granted to the petitioner, as guardian, to sell the undivided 2/3rd share of the minor in the*

petition schedule property having an extent of 4.25 Ares situated in Panachikkad Village, Kottayam Taluk.

- 3. The sale shall be conducted for a price not less than the fair value or the prevailing market value, whichever is higher, the present market value being Rs.2,00,000/- per Are.*
- 4. The petitioner is directed to deposit the entire 2/3rd share of the total sale consideration belonging to the minor as a Fixed Deposit in a Nationalised Bank in the name of the minor, Jaison S.J, until he attains the age of majority. The lien of this Court shall be marked on the fixed deposit receipt.*
- 5. The petitioner shall execute a bond for the proportionate value of the minor's share, undertaking to protect the interests of the minor and to comply with the orders of this Court.*
- 6. The petitioner shall file a copy of the registered Sale Deed and the original Fixed Deposit Receipt before this Court within one month from the date of the execution of the sale deed.*

Dictated to the software, corrected by me, and pronounced by me in Open Court on this the 07th day of April, 2026.

Sd/-
Ranjith Krishnan N.,
Addl. District Judge-V, Kottayam

APPENDIX**Exhibits marked for the Petitioner:**

A1	22.05.2025	The death certificate of Simon K.J, confirming his passing on 17.04.2011.
A2	22.05.2025	The birth certificate of the minor, Jaison S.J, confirming his date of birth as 14.10.2009.
A3	09.08.2024	The family membership certificate issued by the Village Officer, Panachikadu, confirming the relationship with the deceased.
A4	22.05.2025	The death certificate of James, confirming his passing on 5.01.1992
A5	22.05.2025	The death certificate of Annamma James, confirming her passing on 05/01/2004
A6	09.08.2024	The family membership Certificate of James Mani issued by the Village Officer, Panachikadu, confirming the relationship with the deceased.
A7	14.05.2025	Certified copy of Sale deed No.320/1988.
A8	22.05 .2025	Tax receipt of the petition schedule property.
A9	Nil	Aadhaar card establishing the identity of the petitioner.
A10	Nil	Aadhaar card establishing the identity of the minor.

Exhibits Marked for Respondent : Nil

Court Exhibits : Nil

Witness examined for the Petitioner:

PW1 16.08.2025 July Jery

PW2 16.03.2026 Jincy Jose

Witness examined for Respondent : Nil

Court Witness : Nil

Id/-
Addl. District Judge-V, Kottayam

//True Copy//

Sd/-
Ranjith Krishnan N.,
Addl. District Judge-V, Kottayam