

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE-II,  
THIRUVANANTHAPURAM**

PRESENT : SRI. RAJIV JAYARAJ, ADDL. DISTRICT JUDGE-II

*Wednesday, the 8<sup>th</sup> day of April, 2026/ 18<sup>th</sup> day of Chaithra, 1948*

**OP No.126/2025**

**PETITIONER:-**

Athira P S, aged 27 years, W/o Gopakumar S,  
residing at Kuppalangara, Mekkumkara Veedu,  
Irinchiyam PO, Nedumangad,  
Thiruvananthapuram-695561.

***By Adv. Aneesh B***

**RESPONDENT :- Nil**

This OP having been finally heard on 07-04-2026 and the court on 08-04-2026 passed the following :-

**ORDER**

This petition is filed U/Ss. 7 and 29 of the Guardian & Wards Act, 1890, seeking permission to appoint the petitioner as the legal guardian of the property of her minor children and to allow her to alienate the minors' property.

2. Petitioner's case : The petitioner is the mother of the child, aged 8 years and 5 years, who are residing with the petitioner. 2.67 Ares of property in resurvey No. 262/23 Melthonnaikkal village devolved on the minors as per deed No.4014/2015 of Pothencodu SRO executed on 23.12.2015 in favour of Gopakumar, who is the father of the minors.

3. The petitioner is a housewife and she is not having a steady source of income. In order to provide quality education to the minors and quality life to her children, the petitioner had borrowed money from bank and to clear the mortgage money and also to provide good care, education attention for upkeep and maintaining the minor children, the petitioner intend to sell the petition schedule property and to deposit the share of sale consideration due to the minors in a Nationalised bank so that the interest can be utilized for the upbringing of the minors. The petitioner submit that one Mr. G. Chandran has agreed to purchase the property . Hence this petition is filed for appointing the petitioner as the guardian and for permission to sell the petition schedule property belonging to the minors to the intended purchasers, who have agreed to purchase the property for the highest market value available in the locality, ie, ₹.25,00,000/-(Rupees Twenty Five lakhs only).

4. Notice on the petition was published and affixture was also effected. Near relatives of the parties were served with notice. No objection was raised from any quarter even after the newspaper publication . Mother of deceased filed affidavit stating that she has no objection but she should get her due share.

5. The following points arise for determination:

- (1) Is the petitioner, the best and most competent person to be declared as the guardian of the property of the minors ?
- (2) Is the sale of the the petition schedule property in the name of the minors is for their advantage?

(3) Can the petitioner be permitted to sell the petition schedule property, which is the share of the minor and if so, on what terms and conditions?

6. In support of the application, the petitioner herself was examined as PW1, filed proof affidavit and marked Exts.A1 to A7. Heard the learned counsel for the petitioner and perused the records.

7. **Point Nos. 1 to 3:-** Section 7 of the Guardian & Wards Act, 1890 empowers the District Court to appoint a guardian of the person or property or both of a minor or to declare a person to be such a guardian, if the Court is satisfied that, it is for the welfare of the minor. Section 8 deals with the class of persons on whose application alone, the Court can exercise the power vested in it by Section 7. It is well settled that the appointment of the guardian of the person of the minor is a matter within the exclusive jurisdiction of the Family Court provided under explanation (g) to S.7(1) of the Family Courts Act and so, the jurisdiction of the District Court with respect to that relief is taken away by the jurisdictional Family Court. In dealing with such matters the Court is exercising *parens patriae* jurisdiction to ensure the welfare and well-being of the minors.

8. The petitioner filed the proof affidavit in support of the original petition. Ext.A1 is the letter from the mortgagee (Thonnakkal Service Co-operative Bank) showing that the property is mortgaged. Ext.A2 is the legal heirship certificate. Ext.A3 is the death certificate of petitioner's husband, Gopakumar. Ext.A4 series are the birth certificates of Gautham G.A. (14.01.2017) and

Gauthami G.A (18.11.2020). Ext.A5 series are the copies of Aadhar cards of petitioner and minor children. Ext.A6 is the Valuation certificate of the petition schedule property. Ext.A7 is the agreement entered into between the petitioner and proposed buyer.

9. Here, from the original petition, proof affidavit and documentary evidence, it is proved that the petitioner is the mother of the minors. The petitioner guardian is looking after the property settled to the minors as per deed No. 4014/2015 on their behalf.

10. The petitioner asserts that in order to maintain the minor children and to meet the educational, medical and other expenses of the minors, she has no other option, but to sell the petition schedule property being the share of the minor children to raise the necessary funds.

11. Having considered the facts and circumstances, this Court finds that the sale of the petition schedule property is essential for the benefit and well-being of the minors. The buyer has undertaken that he is willing to purchase the property mentioned in the valuation certificate issued by Village Officer, Melthonnakkal for a sum of ₹.25,00,000/- (Rupees Twenty Five lakhs only) and the amount will be deposited in a Nationalised Bank for the future development, well being and welfare of the ward. This Court is satisfied that the petitioner does not have any interests adverse to those of the minor. Thus, the Court concludes that no prejudice will be caused to the minor by the sale of petition schedule property and that the

petitioner can be appointed as the guardian of the minors' property. Accordingly point Nos. 1 to 3 are found in favour of the petitioner.

In the result, this Original Petition is allowed, subject to the following conditions:

1. The petitioner, being the mother and natural guardian of the minor children, is permitted to execute and register the sale deed in respect of the petition schedule property, inclusive of the undivided shares of her two minor children, for a total sale consideration of ₹.25,00,000/- (Rupees Twenty Five lakhs only).
2. Before execution and registration of the sale deed in favour of the proposed purchaser, the petitioner shall discharge the subsisting mortgage liability in respect of the property in favour of the bank concerned and shall obtain release of the original title deed.
3. The one-fourth share of each of the minor children (excluding the proportionate amount utilised for discharge of the mortgage liability) shall be deposited by the proposed purchaser in separate Fixed Deposit Accounts in the names of the minors in a Nationalised Bank, for a period extending till they attain majority. Such deposit shall be effected prior to the execution of the sale deed.

4. The draft sale deed incorporating the above conditions and stipulations shall be produced before this Court for prior approval, along with the original title deeds for verification.

5. The petitioner is permitted to withdraw the periodical interest accruing on the Fixed Deposits for meeting the urgent and essential needs of the minors. The petitioner shall execute a personal bond for ₹12,00,000/- (Rupees Twelve lakh only) undertaking that the interest so withdrawn shall be utilised solely for the benefit of the minors.

6. The Fixed Deposit Receipts in the names of the minors shall be produced before this Court before approval of the draft sale deed and shall be retained in the custody of this Court till the minors attain the majority.

The Original Petition is disposed of accordingly.

Dictated to the Confidential Assistant, transcribed and typed by her, corrected by me and pronounced in open court, on this the 8<sup>th</sup> day of April, 2026.

Sd/-  
**RAJIV JAYARAJ**  
**ADDL.DISTRICT JUDGE -II**

**APPENDIX :**

**Exhibits for petitioner:-**

|    |   |            |   |                                                                                            |
|----|---|------------|---|--------------------------------------------------------------------------------------------|
| A1 | - | 24-03-2026 | - | Letter from the Mortgagee<br>(Thonnakkal Service Co-operative<br>Bank No. TSCB/1033/25-26) |
|----|---|------------|---|--------------------------------------------------------------------------------------------|

|             |   |            |   |                                                                               |
|-------------|---|------------|---|-------------------------------------------------------------------------------|
| A2          | - | 14-03-2025 | - | Legal Heirship Certificate issued from the Taluk Office Thiruvananthapuram    |
| A3          | - | 17-10-2023 | - | Death Certificate of Gopakumar issued from Embassy of India, Muscat.          |
| A4 series   | - | 17-01-2017 | - | Birth Certificate of Goutham G A issued from Municipality Nedumangad.         |
| A4(a)       | - | 30-11-2020 | - | Birth Certificate of Gouthami G A issued from Chirayinkeezhu Grama Panchayath |
| A5 (series) | - | ---        | - | Copies of Aadhaar Cards of Petitioner and minor children                      |
| A6          | - | 27-02-2026 | - | Valuation certificate No. 30/26 issued from Melthonnakkal Village Office.     |
| A7          | - | 29-10-2025 | - | Property Sale Agreement.                                                      |

**Exhibit for Respondent:** -NIL

**Witness for the Petitioner:-**

PW1            -        01-04-2026-        Athira P S

**Witness for respondent :-**NIL

**Court Exhibit:-** NIL

Id/-  
**ADDL.DISTRICT JUDGE-II**

(Copies : 3)  
Typed by : Rifa  
Compared by : Anupama        FCS :

(True Copy)

By Order

SHERISTADAR

Copy of Order in  
OP No.126/2025  
Dated: 08-04-2026

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