

**HIGH COURT OF TRIPURA
AGARTALA
FA NO.06 OF 2024**

Smt. Tapashi Bhattacharjee Datta and anr.
Vs.
Smt. Kanan Datta and ors.

**HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT**

Present:

For the Appellant(s) : Mr. I. Chakraborty, Advocate.

For the Respondent(s) : None.

27.08.2024

Order

This present appeal has been filed under Section 47 of the Guardianship and Wards Act, 1890 read with Section 96 of the Code of Civil Procedure, 1908 against the impugned Judgment and Order dated 10.07.2024 in connection with Case No.Civil Misc.(G/C)01/2014 passed by the learned District Judge, Gomati Judicial District Tripura.

2. The brief fact of this case is that the deceased-API Datta made a house spending Rs.20,00,000/- for the residential purpose of his wife, minor daughter, and mother. To do so, he took a loan of Rs.7,00,000/- and by this time, he expired and could not repay the debt. Deceased-API Datta also had a land measuring 0.03 acres which is the homestead land. In the said house, the wife, minor daughter, and the mother of deceased-API Datta are residing. Now the persons who gave loan of Rs.7,00,000/- to Api Datta are pressurizing his wife and mother

for repayment of the debt. But to repay the same, they have to sell out the share of the minor out of the total land of 0.03 acres left by the deceased husband of appellant-petitioner No.1. That is why the appellant-petitioner No.1 along with her minor daughter have filed a petition before the learned Court below for granting Guardianship Certificate for selling out the land belonging to the share of the minor for the purpose of returning back the debt left by her husband as well as to maintain the minor. The learned Court below rejected the prayer stating that since the minor's interest is involved, the said land could not be sold. Hence this appeal for permission of guardianship Certificate to sell the scheduled property inherited by the deceased husband and the father of the appellant-petitioners.

3. Mr. I. Chakraborty, learned counsel appearing for the appellants submits that both the land have the interest of the minor but they have to sell the vacant land so that the debt could be paid back.

4. It is seen from the impugned Judgment and Order dated 10.07.2024 that the Court below was not convinced by the evidence provided by the appellant-petitioners to substantiate their claims and as such the same was rejected.

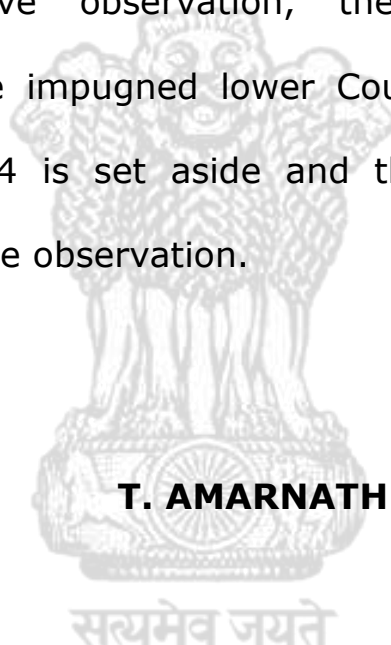
5. However, to provide one more opportunity to the appellant-petitioners to adduce proper evidence and substantiate their claims, the matter is remanded back to the Court below for reconsideration and the appellant-petitioners are also given the

liberty to file any additional pleadings or additional evidence documentary or oral evidence before the Court below. The Court below shall decide the matter afresh by appreciating the evidence. However, it is made clear this Court is not expressing any opinion on the merit of the case holding that the appellants are entitled to the relief sought for. The decision be taken by the Court below keeping in view the interest of the minor child and the order be passed in accordance with the law.

6. With the above observation, the appeal is accordingly disposed of. The impugned lower Court Judgment and Order dated 10.07.2024 is set aside and the matter is remanded back with the above observation.

B. PALIT, J

T. AMARNATH GOUD, J



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