

THE HIGH COURT OF TRIPURA
A G A R T A L A

FA 07 of 2012

Smt. Madhumita Chakraborty (Bhattacharjee)

W/O Late Debiprasad Bhattacharjee,
Dhaleswar, Nutanpally Road No. 6,
PO Dhaleswar, PS East Agartala,
District-West Tripura.

..... *Appellant*

- Versus -

1. Smt. Amala Bhattacharjee,

W/O Late Shashadhar Bhattacharjee
Dhaleswar, Nutanpally Road No. 6,
PO Dhaleswar, PS East Agartala,
District-West Tripura.

2. Shri Ramaprasad Bhattacharjee,

S/O Late Shashadhar Bhattacharjee
Dhaleswar, Nutanpally Road No. 6,
PO Dhaleswar, PS East Agartala,
District-West Tripura.

3. Smt. Jayashree Bhattacharjee,

W/O Sri Manujit Bhattacharjee,
D/O Late Shashadhar Bhattacharjee
Dhaleswar, Nutanpally Road No. 6,
PO Dhaleswar, PS East Agartala,
District-West Tripura.

..... *Respondents.*

B E F O R E

HON'BLE MR. JUSTICE U.B. SAHA
HON'BLE JUSTICE MR. S TALAPATRA

For the Appellant	: Mr. A Pal, Advocate.
For the Respondents	: Mr. Abheek Saha, Advocate.
Date of hearing and delivery of judgment & Order	: 04.03.2015.
Whether fit for reporting	: No.

JUDGMENT & ORDER (ORAL)

The instant appeal is preferred against the order dated 19.04.2012 passed in Civil Misc. (GC) 47 of 2011 whereby and whereunder the learned Judge, Family court, West Tripura, Agartala declared the appellant as the natural guardian of her two minor daughters, namely Miss Debangana Bhattacharjee & Miss Debaleena Bhattacharjee and rejected the prayer for permission to sell the minors property vide Khatian No. 4768 of Mouja-Indranagar.

2. Heard Mr. A Pal, learned counsel for the appellant as well as Mr. A Saha, learned counsel for the respondents.

3. The admitted fact is that the land located at Mouja Indranagar, Sadar vide Khatian No. 4768 measuring 1.05 acres originally belonged to Lt. Shashadhar Bhattacharjee and after his death the property devolved upon the respondents who are the wife, sons and daughter of Late Shashadhar Bhattacharjee and the appellant and her two minor daughters who are the daughter in law and grand daughters of Late Shashadhar Bhattacharjee. The two minor daughters and the appellant being the legal heirs inherited $\frac{1}{4}$ share of the total property after the death of Lt. Debiprasad Bhattacharjee, who was the son of Lt. Shashadhar Bhattacharjee.

4. The appellant preferred a petition under Section 10 of the Guardianship and Wards Act read with Section 8 of the Hindu Minority and Guardianship Act, 1956 for appointment of guardianship of persons and property of minors, as stated supra. The said petition was registered as Civil Misc (Guardianship) 47 of 2011. Learned Judge, Family court considering

all documents declared the appellant as the guardian of her minor daughters but rejected the prayer for permission to sell the property of the minors. Hence, this appeal.

5. Mr. Pal while urging for setting aside the order impugned, so far rejection of the prayer of the appellant to permit her to sell the minors' property, would contend that the respondents are also willing to sell the land within their share and on that ground it was not proper on the part of the learned Family Judge to reject the prayer for permission. He also submits that the appellant as well as the respondents have agreed to keep the money of the sale proceeds relating to the share of the minors in a fixed deposit to serve their interest and it would not in no way adversely affect the interest of the other parties.

6. Mr. Saha, learned counsel for the respondents submits that the respondents are also willing to sell off their share immediately and they have no objection if permission is accorded to sell the minors' share on condition that their share of the sale proceeds shall be kept in fixed deposit till their attaining majority.

7. In view of the above submission of the learned counsel for the parties and on going through the impugned order as well as the affidavit filed by the appellant showing the necessity for selling the land in question and as she has also undertaken that the minors' share of the sale proceeds will be kept in a fixed deposit till they attain majority, we are of the opinion that it would be proper to set aside the order of the learned Judge, Family Court so far rejection of permission for selling the minors' property in question is concerned. Accordingly, the same is set aside and the

appellant, being the guardian, is allowed to sell the share of the minors, as mentioned in the schedule of the property in the petition, on condition that their shares of sale proceeds shall be kept in fixed deposit till their attaining majority.

8. Registry is directed to draw the decree accordingly. Send down the LCRs forthwith. With the aforesaid order, the instant appeal is disposed of. No costs.

JUDGE

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