

**HON'BLE SRI JUSTICE G. CHANDRAIAH
AND
HON'BLE SRI JUSTICE M.S.K.JAISWAL**

C.M.A.No. 1048 of 2014

Dated: 12.02.2015

Between:

Smt. Farhat Begum

... Appellant

Vs.

All concerned.

... Respondent(s)

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**HON'BLE SRI JUSTICE G. CHANDRAIAH
AND
HON'BLE SRI JUSTICE M.S.K.JAISWAL**

C.M.A.No. 1048 of 2014

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JUDGMENT: (Per Hon'ble Sri Justice MSK Jaiswal)

This appeal is directed against the order of the Special Sessions Judge for Trial of Cases under SCs & STs (POA) Act-cum-VII Additional District & Sessions Judge, Ranga Reddy district at L.B. Nagar, Hyderabad in GWOP No.126 of 2014, dt. 17.09.2014, by and under which the request of the appellant/petitioner to permit her to enter into a Development Agreement in respect of the share of the minor children in an open plot of 201 sq. yards was refused.

2. Briefly, the facts are that the appellant is the natural mother of two children, namely – Munazza Shireen (DOB.18.04.2002) and Sofia

Shireen (DOB. 13.08.2003). During the life time of her husband, namely Mohammed Mukram, he is said to have acquired an open plot to an extent of 201 sq. yards, and also entered a Memorandum of Understanding with the builder to develop the plot into flats. However, even before the transaction is finalized, her husband Mohammed Mukram is said to have died untimely on 02.02.2013. Thereafter, the appellant, being natural mother of the minor children, has entered into a development agreement with the said builder agreeing to allow the Developer to develop the property into flats, and after completion of the construction, two of such developed flats, bearing Flat Nos. 201 and 402 were agreed to be given to the share of the minors.

3. The trial Judge has refused to accord permission on the ground that even though obtaining permission of the Court is mandated, the appellant being the natural mother of the minors, has entered into the development agreement with the builder before obtaining the permission of the Court.

4. We have perused the material on record and on being summoned the appellant, along with the two minor daughters, appeared before us. We have heard the appellant, the children and satisfied that the Development Agreement entered into with the Builder by the natural mother of the minors, namely the appellant herein, is in the larger interest of the minor children only. It is noticed that the plot measures only 201 sq. yards and in view of the death of the sole bread earner of the family, namely, the father of the minors, the property was not being put to proper use. Therefore, in the interest of the minor children, the said plot was given for development, and the Builder agreed to develop the same and allot two of such constructed flats towards the share of the minor children.

5. Upon giving thoughtful consideration to the matter and taking into consideration the paramount wellbeing of the minor children, we are satisfied that the transaction that has been proposed to be entered or already entered into by the appellant/natural mother of the minor children, which as a matter of fact is in continuation of Memorandum of Understanding already entered into by the father of the minor children during his life time, is in the best interest of the minor children and will fetch certain income from out of the said property, left behind by their natural father.

6. In view of the above, we are of the opinion that this is a fit case where the permission can be accorded to the appellant/natural mother of the minors to finalize the transaction and to permit the Developer to complete the construction and alienate the flats, other than the two plots that are agreed to be given to the share of the minor children. However, it is made clear that neither the appellant, nor the Developer is entitled to alienate these two flats, namely Flat Nos.201 and 402, allotted to the share of the minor children, till they attain majority.

7. The CMA is accordingly allowed. As a sequel, the miscellaneous petitions, if any pending, shall stand closed accordingly. No costs.

G. Chandraiah, J.

M.S.K. Jaiswal, J.

Dt.12.02.2015
Kv

HON'BLE SRI JUSTICE G. CHANDRAIAH

AND
HON'BLE SRI JUSTICE M.S.K.JAISWAL

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C.M.A.No. 1048 of 2014
(Judgment of the Division Bench delivered by
Hon'ble Sri Justice MSK Jaiswal)

Dated: 12.02.2015

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