

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.2830 of 2007

Date of decision: May 06, 2015.

Satish

... **Petitioner**

v.

Priti etc.

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE DR. BHARAT BHUSHAN PARSOON**

Present: Shri Ashwani Gaur, Advocate, for the petitioner.

Shri Surender Saini, Advocate for the respondents.

Dr. Bharat Bhushan Parsoon, J. (Oral):

Orders dated 27.11.2004 (Annexure P-1) and dated 30.4.2007 (Annexure P-3) of the courts below are under challenge in this revision petition under Article 227 of the Constitution of India invoking supervisory powers of this Court.

2. Vide impugned order (Annexure P-1), petition under Section 8 of the Hindu Minority and Guardianship Act, 1956 for permission to sell the shares of the minors (through their mother) in agricultural land described in the petition in para 2(A) to (C) was granted subject to furnishing of security in the sum of Rs.2.00 lacs for safeguarding interest of the minors. Satish son of Jai Narain, claiming himself to be real paternal uncle of the minor-petitioners, had sought review of order dated 27.11.2004 but finding no merit therein, his application was dismissed on 30.4.2007.

3. In compliance with the orders of this Court dated 2.2.2014, date of birth certificates in the shape of school record have been disclosed by the respondents. The said documents of three respondents have been taken on

record.

4. Counsel for the respondents has urged that the petitioner has no interest, either in the respondents nor in the land owned by them and has filed the petition merely to create obstruction.

5. Counsel for the petitioner-applicant, however, has urged that he being paternal uncle of the respondent, is keen to safeguard the interest of the minors because mother of the respondents has already remarried.

6. Perusal of the school certificates reveals that only respondent Vishal (respondent No.3), born on 6.11.2002, continues to be minor whereas the other two respondents, viz., Preeti and Priya having been born on 25.5.1993 and 6.11.1996 respectively have become major and thus can take care of their share of property all by themselves.

7. The impugned order thus operates only qua Vishal who continues to be minor. Interest of the minor is not sufficiently safeguarded vide impugned order dated 27.11.2004 whereby furnishing of security in the sum of Rs.2.00 lacs has been ordered. It is, thus, made clear that sale consideration of the share of minor Vishal will be put in a fixed deposit account in his name which he alone would be able to withdraw on attaining his majority. Even interest amount would keep on being invested automatically by the bank ensuring the same for the minor when he becomes major.

8. When called upon, the petitioner has not been able to convince this Court about maintainability of his petition. Merely because he is paternal uncle of the minor respondents ipso facto is no ground to proclaim maintainability of the petition in his favour particularly when the application for review of the order was made after 1½ year of the passing of the impugned order. It is also to be noticed that the petitioner-applicant had not been able to point out any facts and circumstances to buttress his claim that their mother through whom the petition had been filed under Section 8 of the Act was working against the interest of the minors. Mere contracting of second marriage by the mother of the respondents ipso facto is no ground

to presume that her interest would be adverse to the minors. Observations of the court below are very apt and for ready reference, are reproduced as below:-

“However, the petitioners are still living with their mother Smt. Pinki. The application appears to have been moved by Satish just to create obstructions in the sale of the land of the minor petitioners by their mother. The counsel has failed to point out any specific provision under which the application moved by Satish after one and half year of the passing of the order is maintainable.”

9. With the aforesaid modification, finding no merit in the petition, the same is dismissed.

May 06, 2015.
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[Dr. Bharat Bhushan Parsoon]
Judge