

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2017

CORAM

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN

C.M.A.No.2395 of 2017

1.Vimala

2.K.S.Selvaraj

... Appellants

..Vs..

Sankar

... Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 8(5)(c) of Hindu Minority and Guardianship Act, 1956, to set aside the fair and final order dated 13.04.2016 passed in H.M.G.O.P.No.113 of 2015 on the file of Hon'ble Principal District Judge at Tirupur.

For Appellants : Mr.S.Rajasekar

For Respondent : Mr.P.Mathivanan

JUDGEMENT

This Appeal has been filed by the appellants, who are the parents of the minor children by name S.V.Saswith and S.V.Nitharsana. The property in question was allotted to the minor children in a partition that was took place between them and the second appellant, who is the father of the minors, under a partition deed dated 25.11.2011. The appellants wanted to sell the property of the minors for a total consideration of Rs.89,27,100/- [Rupees Eighty Nine Lakhs Twenty Seven Thousand One Hundred Only] and to deposit the sale proceeds in a fixed deposit. So that the education expenses of the minors could be made from the interest earned by the sale process.

2. Admittedly, the property is dry agricultural land and it is not put to use for any agricultural purposes for the past one year. According to the appellants, it will be the interest of the minor children to sell the property and deposit the proceeds so that this interest earned could be spent on the education of the minors. It is also claimed that the first minor child S.V.Saswith is studying in a International School and the annual fee payable is around Rs.4,00,000/- [Rupees Four

Lakhs Only]. The second minor child S.V.Nitharsana is also to be admitted in an International School from next year onwards.

3. The learned District Judge has rejected the petition on the ground that the value of the land would increase multi fold, when the minors attaining majority. The 2nd petitioner/father of the minors has admitted that he wants to sell the minors' property to repay his loans. This observation of the learned District Judge is based on erroneous understanding of the averments made in paragraph No. 6 of the affidavit filed in support of the petition. In Paragraph No. 6 of the affidavit filed in support of the petition, the petitioners have only stated that the loan borrowed by the 2nd petitioner for the purpose of his business has been spent for the education expenses. Once the appellants are ready to sell the property for a stated consideration and have undertaken to deposit the entire sale consideration in a fixed deposit in the name of the minors, the apprehension of the learned District Judge is in my considered opinion is baseless. Therefore, the appeal still stands partly allowed and the appellants are permitted to sell the property of the minors to the respondent Mr.Sankar for a consideration of Rs.89,27,100/- [Rupees Eighty Nine Lakhs Twenty Seven Thousand One Hundred Only]. The said sum of Rs.89,27,100/- [Rupees Eighty Nine Lakhs Twenty Seven Thousand One Hundred Only] shall be deposited in a fixed deposit for a period of ten years in any Nationalized Banks and the fixed deposit receipt along with the copy of the sale deed executed in favour of the respondent Mr.Sankar shall be produced before the District Court, Tiruppur, within a period of eight weeks, from the date of execution of the sale deed. Subject to the above, the appellants are permitted to sell the property of the minors. No Costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

KP

To

The Principal District Court,
The learned Principal District Judge,
Tiruppur.

+lcc to Mr.S.Rajasekar, Advocate, S.R.No.56997

C.M.A.No.2395 of 2017

CS IV

CA(23/08/2017)