

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CMA.Nos.126 and 137 of 2018

Date:14.08.2018

Between.

Garlapathi Pedda Yadaiah,
S/o Late Chinna Venkaiah

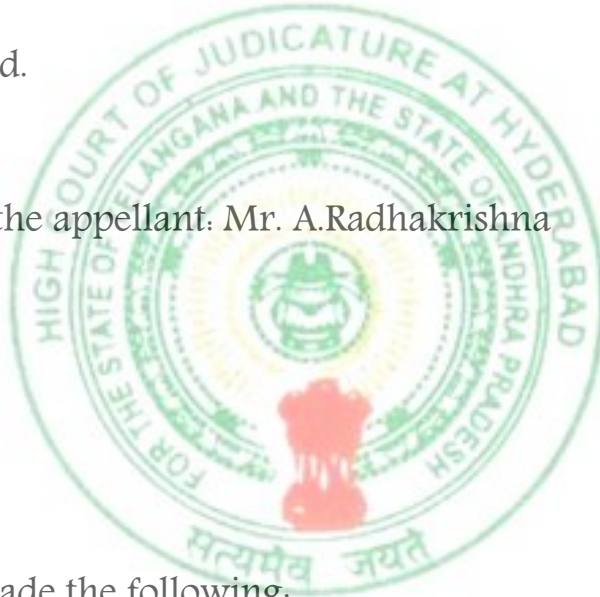
.....Appellant

And.

All concerned.

....Respondents

Counsel for the appellant: Mr. A.Radhakrishna



The Court made the following:

COMMON JUDGMENT: (per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

These two Civil Miscellaneous Appeals are filed against separate, but identical orders, dated 30.11.2017 and 29.11.2017, passed in GWOP.Nos.463 and 462 of 2017, respectively, on the file of the Principal District Judge at Nalgonda.

The appellant is the paternal grandfather of Garlapati Aakanksha, aged 13 years, and Garlapati Akshitha, aged 8 years, who are the daughters of Garlapati Anand Kumar, and is also the grandfather of Garlapati Nikhitha, aged 13 years, and Garlapati Nethra, aged 8 years, who are the daughters of Garlapati Vara Prasad.

The appellant has filed the afore-mentioned GWOPs under Sections-8 to 29(A) of the Guardian and Wards Act, 1890, and Section-8 of the Hindu Minority and Guardianship Act, 1956, to allow him to sell 1,425 square yards of land standing in the name of each of the four minors in Survey No.11 of Pochampally Village, Bibinagar Mandal, Bhongir Yadagiri District.

In the said GWOPs, the appellant stated that the petition schedule properties along with larger extents of properties were gifted to his four minor grand children by him along with his

wife-Garlapati Ramalingamma under Gift Settlement deeds executed in the year 2011; that the properties allotted to his four minor grand children under the Gift Settlement deeds are proposed to be converted for non-agricultural purpose; that his two sons, who are living abroad, have given their consent for such conversion; and that they have accordingly executed General Power of Attorneys, dated 12.03.2012. He has further averred that he has made applications before Hyderabad Metropolitan Development Authority ('HMDA') for conversion and that the HMDA has granted permission with approved layout. He has also pleaded that as per the approved layouts, an extent of 1,425 square yards of land was allotted to each of the four minors towards their share of 20 guntas each of the agricultural land in Survey No.11 and the appellant seeks to dispose of the said plots after conversion by putting the same in market for sale. The appellant has therefore filed the afore-mentioned GWOPs.

The appellant has examined himself as P.W-1 and got Exs.P-1 to P-4 marked. Ex.P-1 is the certified copy of Gift deed, dated 14.02.2011, Ex.P-2 is the proceedings, vide No.B/2229/11 of the Revenue Divisional Officer, Bhongir, Ex.P-3 is the HMDA layout permission with map, dated 29.3.2012 and Ex.P-4 is the General Power of Attorney. The lower Court has dismissed both

the said GWOPs on the sole ground that the appellant has not stated as to whether the development is for the benefit of the minors and if it is so, there is no need to get any permission. It has further held that the appellant cannot be permitted to sell the property to the detriment of the rights of the minors.

When these cases came up before us on an earlier occasion, on the suggestion falling from the Bench, the appellant has filed separate applications, *viz.*, I.A.No.2 of 2018 in these appeals to implead his two sons, who are presently residing in U.S.A and U.K. respectively, as respondent No.2 in these appeals.

On receipt of personal notices ordered by this Court, the impleaded respondents filed their separate counter-affidavits, wherein they have admitted the facts pleaded by the appellant.

As the averments are identical in both the counter-affidavits, it will suffice if paragraph-5 of the counter-affidavit filed by respondent No.2 in CMA.No.137 of 2018 is reproduced hereunder:

“I submit that I being the natural father/guardian of minor wards, have no objection for the permission sought for by my father i.e., the petitioner/appellant to sell the land of my minor children as the same is for their development and welfare, therefore, implead petition may be allowed and also the main CMA as I have no objection for the same and in fact, I am giving my consent with free will as the proposed sale of land belong to my minor children is

for their development and welfare and I assure and undertake that I shall not claim or dispute in any manner for granting permission for sale or after sale of my minor children property.”

On 13.8.2018, when the cases were taken up for hearing, Mr.A.Radhakrishna, learned counsel, submitted that Mr. P.Dhanamjaya, learned counsel, who entered appearance for respondent No.2 in these appeals, has expired. He requested for a day’s adjournment to obtain instructions from his clients and the cases were accordingly adjourned. Today, he has placed before the Court the e-mail print outs of the written instructions sent by respondent No.2 in both these cases. Respondent No.2 in CMA.No.126 of 2018 has stated as under:

“We have no objection for allowing the CMA as our father will certainly take care of everyone including minors. We have already submitted our counter and we have no objection for allowing the CMA. We are authorising Sri A.Radha Krishna (Advocate) to appear on behalf of us.”

Respondent No.2 in CMA.No.137 of 2018 has stated as under:

“We have no objection for allowing the CMA as our father-Yadaiah Garlapati will certainly take care of everyone including minors. We have already submitted our counter and we have no objection for allowing the CMA. We are authorising Sri A.Radha Krishna (Advocate) to appear on our behalf.”

In the light of the fact that respondent No.2 in each of these appeals, who are the fathers and natural guardians of their respective children, have fully supported the plea of the appellant, there is no reason for the Court to think that the development and sale of the plots are prejudicial to the interests of the minor children. On the contrary, if the appellant is not permitted to develop and sell the plots, that may work to the detriment of the interests of the minor children.

In the light of the above reasons, the orders under appeal are set aside. GWOP.Nos.462 and 463 of 2017 are allowed as prayed for.

The Civil Miscellaneous Appeals are accordingly allowed.

As a sequel to the disposal of the appeals, I.A.No.1 of 2018 filed for interim relief in each of the appeals are disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE GUDISEVA SHYAM PRASAD

14th August, 2018

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