

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

CIVIL MISCELLANEOUS APPEAL No.955 of 2017

JUDGMENT: (ORAL)

(Per Suresh Kumar Kait, J)

Vide the present appeal, the appellant has challenged order dated 24.04.2017 passed in G.W.O.P.No.722 of 2016, whereby the petition filed him under Section 8 to 29 (A) of Guardian and Wards Act, 1890 and Section 8 of Hindu Minority and Guardianship Act, 1956, has been dismissed.

2. We note, vide the aforesaid petition, the appellant sought directions, thereby to appoint him as guardian of the person and property of the minor by name Amula Adithya and to accord permission to sell away the schedule property situated at Narasaiah Gudem, H.No. Aroor village, Valigonda Mandal, under G.P. of Aroor, Nalgonda District.

3. We further note that the learned trial court has dismissed the petition by recording that in the contents of the entire petition and recitals of the sale deed dated 13.07.2012, there is no whisper about the passing of consideration and payment of consideration and the position of the parents of the minor. The petition is very silent about the parents of the ward and the nearest relatives did not come forward to support the case of the appellant herein. Though, one Anju and one A. Nagala are cited in the petition as relatives, however, in the absence of the parents only, others will be appointed as guardians.

4. Pursuant to order dated 08.02.2018, the learned I Additional District and Sessions Judge, Nalgonda, has submitted report dated 17.05.2018, whereby it is stated as under:

“Mr.A.Anju, S/o. late Venkat Rao, OCC: Business, R/o.Flat No.G1, Sri Sai Residency, H.No.17-1-388/6, Laxminagar Colony, Saidabad, Hyderabad, stated that he is a businessman, and Mrs.A.Nagala is his wife and Sri A.Satyanarayana, appellant in CMA No.955/2017 on the file of Hon’ble High Court of Judicature at Hyderabad is his father-in-law, and that the ward Amula Adithya, who is 16 years old, is his son. That out of love and affection, his father-in-law, Sri A.Satyanarayana, purchased the property, which is the subject matter in GWOP No.722/2016 on the file of Prl. District Court, Nalgonda, and he has no objection to appoint the appellant Sri A.Satyanarayana, as guardian for the person and property of the ward.

Likewise, Smt.A.Nagala, W/o. Mr.A.Anju also stated that she is the of the ward, and daughter of Sri A.Satyanarayana, who is the appellant in CMA No.955/2017 on the file of Hon’ble High Court of Judicature at Hyderabad. That out of love and affection, her father, A.Satyanarayana, purchased the property, in the name of her minor son, i.e. Amula Aditya which is the subject matter in GWOP No.722/2016 on the file of Prl. District Court, Nalgonda, and she has no objection to appoint her father, the appellant Sri A.Satyanarayana, as guardian for the person and property of the ward.

I have also called for the identity particulars of the aforementioned deponents such as Aadhar Cards of the deponents, S.S.C. Memorandum, Birth Certificate of the ward, etc.

A perusal of the birth certificate of Amula Venkata Aditya, shows that the names of the above said deponents viz., A.Anju and A.Nagala are shown as the parents of the ward and the date of birth of the ward is shown as 20.08.2001. A copy of Aadhar Card of the ward also shows that he is the son of Amula Anju.

Further, a perusal of SSC Memorandum of the ward viz., Amula Venkata Aditya also shows that the abovementioned deponents are the parents of the ward.

I further submit that, on perusal of the Birth Certificate and SSC Memorandum of Marks of the ward shows that Mrs.Amula Anju and Amula Nagala, who are the deponents in CMA No.955/2017 on the file of Hon'ble high Court of Judicature at Hyderabad, are the parents of the ward, viz., Amula Venkata Aditya.

5. From the report, it is established that the appellant is the maternal grandfather of the ward Amula Venkata Aditya, who was born on 20.08.2001. His father and mother, namely Mrs.Amula Anju and Mr.Amula Nagala have no objection if the appellant is appointed as guardian of the ward for the purpose of selling out the schedule property and 50% of the share is given to the ward.

6. Keeping in view the fact that the schedule property has been purchased jointly in the name of the appellant and the minor ward Amula Venkata Aditya, and the appellant is around 78 years of age, therefore, he does not want to leave any issue regarding the property and wants to dispose of the same by giving 50% share out of the consideration amount in favour of the minor ward.

7. In that view of the matter, we hereby set aside order dated 24.04.2017 passed in G.W.O.P.No.722 of 2016. Consequently, the appellant herein is appointed as guardian of the minor ward Amula Venkata Aditya to dispose of the schedule property admeasuring Ac.8.01 gts. (Ac.5.00 gts. in Sy.No.608/B, Ac.3.01 gts. In Sy.No.608/D) situated in Narasaiah Gudem hamlet of Aroor village, Valigonda Mandal, under G.P. Aroor, Nalgonda District, Telangana.

8. We further direct the appellant to deposit 50% of the sale consideration of the schedule property in the bank account of minor ward Amula Venkata Aditya. It is made clear that the sale consideration to be deposited in the bank account of the minor ward shall not be withdrawn by anybody till the minor ward attains majority.

9. The appeal is allowed to the extent indicated above. No order as to costs.

As a sequel, miscellaneous petitions, if any pending, stand closed.

SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

July 05, 2018
MRR