

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.09.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

CMA.No.868 of 2020

R.Vediperumal

.. Appellant

vs.

Nil

.. Respondent

Civil Miscellaneous Appeal filed against the fair and decreetal order in G.O.P.No.80/2019 dated 03.12.2019 on the file of the learned Principal District Judge, Krishnagiri.

For Appellants : Mr.C.Samivel
For Respondent : --

JUDGMENT

This Civil Miscellaneous Appeal has been directed against the fair and decreetal order passed in G.O.P.No.80/2019 dated 03.12.2019 by the learned Principal District Judge, Krishnagiri.

2. Learned Counsel appearing for the appellant would submit that the property-in-question originally belongs to the appellant's father, who has also executed a Gift Deed dated 27.03.2013 bearing Document No.965/2013 on the file of the Sub-Registrar, Bargur in favour of his minor grandson V.Ajaysri. However, the appellant, being the father of the minor son is the Guardian for the minor for the benefit of the minor and that he was in possession of the said property. It is a house site. Since the adjoining house site owners are frequently trying to encroach the same, the appellant finds it very difficult to maintain the same. In the meanwhile, one Mr.Palani, who owns lands in the surrounding areas, has come forward to purchase the same for a sum of Rs.4,38,180/- as it is very convenient to him. Secondly, the appellant has been originally employed in a travelling agency at Bargur. But due to some problem faced by the proprietor, it was also closed. Therefore, the appellant, who is now jobless, is not able to meet out the educational expenditure of his minor son who is going to a well reputed Matriculation School, namely, St.Kanakadasa Matric Higher Secondary School, Bargur.

3. In the additional typed set of papers filed by the learned Counsel for the appellant before this Court, the appellant has enclosed the School Fee Receipts of his minor son from 13.09.2018 to 31.05.2019 along with a Memo of Calculation that shows that for the academic year 2018-2019, the appellant has spent a sum of Rs.70,000/- towards School Admission Fee amount for two terms, Rs.14,550/- towards Smart Class Fee, Rs.3950/- towards Books and Notebooks, Rs.1350/- towards Uniform, tie and Belt and Rs.1000/- towards Stationary, Rs.20,400/- towards Sports fees (Rs.1700/- p.m.) and Rs.24,000/- towards Tuition fees (Rs.2000/-p.m.) totalling Rs.1,35,250/- for the academic year 2018-2019 and Rs.75,000/- towards School Admission Fee amount for two terms, Rs.14,200/- towards Smart Class Fee, Rs.4000/- towards Books and Notebooks, Rs.1350/- towards Uniform, tie and Belt and Rs.1000/- towards Stationary, Rs.20,400/- towards Sports fees (Rs.1700/- p.m.) and Rs.30,000/- towards Tuition fees (Rs.2500/-p.m.) totalling Rs.2,81,200/- for the academic year 2019-2020. Since the appellant has admitted that his son is studying in a reputed school, namely, St.Kanakadasa Matric Higher Secondary School, Bargur and he is not able to get suitable employment after he was sent out from the travelling agency, in order to continue his minor son's education, he thought it fit to sell the property-in-question as he has no other go.

4. Learned Counsel for the appellant further submitted that the guideline market value of the house site-in-question has been shown at Rs.201/- per sq.ft. whereas 2180 sq.ft. of land has been worked out at Rs.4,38,180/-. Therefore, when the said amount of Rs.4,38,180/- is the correct value of the property-in-question on the basis of the guideline value from 09.06.2017 issued by the Registration Department, Government of Tamil Nadu, the reasoning given by the learned Principal District Judge, Krishnagiri, that the appellant who is going to sell the property at a lower rate is without any basis when the parties have agreed to sell the property only on the basis of the guideline market value. Further, when the appellant has also given an undertaking that only to meet out the educational expenditure of his minor son i.e. for the interest and welfare of the minor, the refusal of the prayer would endanger his future career that he is not able to continue his education in the said reputed school. Therefore, the appellant has come to this Court, challenging the fair and decreetal order in G.O.P.No.80/2019 dated 03.12.2019 passed by the learned Principal District Judge, Krishnagiri.

5. This Court also finds that the property-in-question is a house site gifted by the appellant's father, in favour of his minor grandson as per Gift Deed Document No.965/2013 dated 27.03.2013 on the file of the Sub-Registrar, Bargur. Secondly,

it has been pleaded that the appellant while serving in the Travelling Agency has been now rendered jobless in view of the closure of the travelling agency and in that situation, in order to continue the education of his minor son in St.Kanakadasa Matric Higher Secondary School, Bargur, where he has been presently undergoing 5th Standard, he requires money. Thirdly, when the house site has been attempted to be encroached by the neighbours, it was mentioned that the appellant finds it very difficult to safeguard the same. Therefore, he has decided to sell away the same as he was in dire need of money to spend for his minor son's education. Fourthly, even the guideline market value announced by the Government of Tamil Nadu Registration Department from 09.06.2017 as been found at page No.15 of the typed set of papers filed by the learned Counsel for the appellant shows that Rs.201/- has been fixed as market value per square feet to the subject property and if the property-in-question having an extent of 2180 sq.ft. is sold that would fetch Rs.4,38,180/-. Therefore, the reasoning given by the learned Principal District Judge, Krishnagiri that the value of the property will increase in future is without any substance since due to the prevailing covid-19 pandemic situation, there is no possibility of the increasing of the market value and it is also not known at what point of time, the market value will increase. However, in the meantime the appellant has to continue his minor son's child in the same reputed school. The school fee receipts of his son from 13.09.2018 to 31.05.2019 along with a Memo of Calculation have been enclosed in the additional typed set of papers filed by the learned Counsel for the appellant which clearly shows that the appellant has spent huge amount on his son's education and the appellant is also now unemployed and it is very difficult to get a job today due to the covid-19 pandemic situation since many people are rendered jobless. Therefore, situation compels the appellant to sell away the property settled by way of gift deed in favour of his minor son to continue his education, hence, permission is granted to sell the petition mentioned property for the welfare of the son.

6. In the result, the fair and decreetal order passed in G.O.P.No.80/2019 dated 03.12.2019 by the learned Principal District Judge, Krishnagiri are set aside and accordingly, the Civil Miscellaneous Appeal stands allowed. No Costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

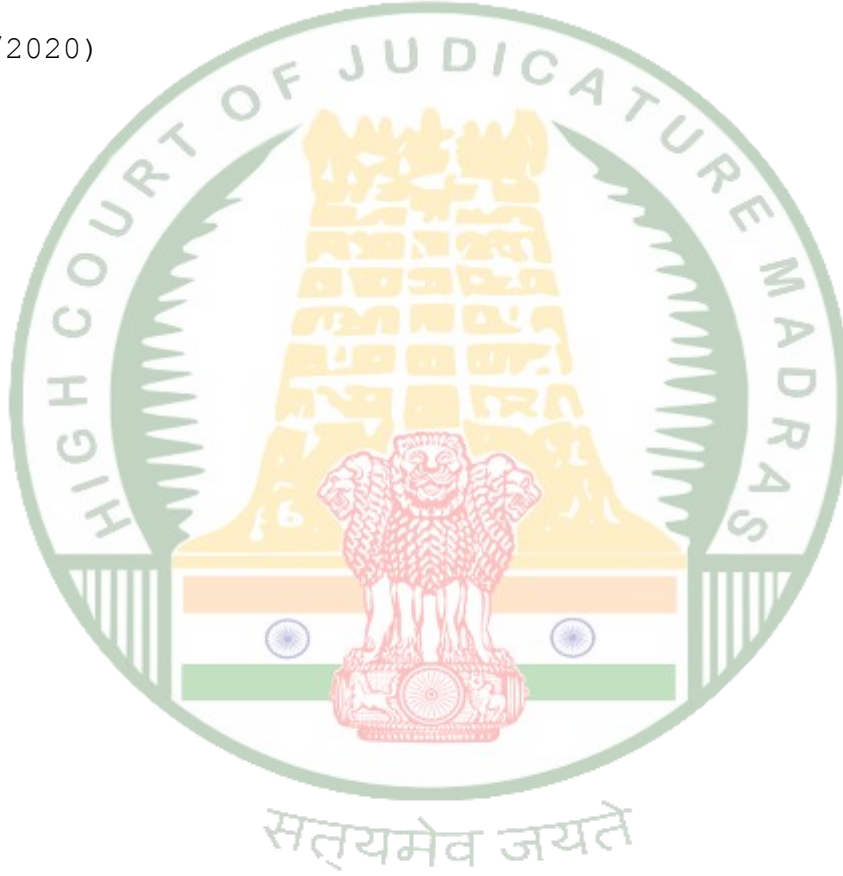
tsi

To
Principal District Judge, Krishnagiri.

+1 cc to M/s.C.Samivel, Advocate Sr.No. 30725

CMA. No.868/2020

RSV (CO)
RMP (19/11/2020)



WEB COPY