

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.10.2020

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.1491 of 2020

1.Ravichandran

2.Iyyappan

3.Kala ... Appellants

-vs-

Nil ... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 47 of the Guardian and Wards Act, 1890 against the fair and decretal order dated 04.03.2020 passed in Guardian O.P. No.256 of 2019 on the file of the Principal District Judge, Villupuram.

For Appellants : Mr.D.Baskar

JUDGMENT

This appeal has been filed against the fair and decretal order dated 04.03.2020 passed by the Principal District Judge, Villupuram in Guardian O.P. No.256 of 2019.

2.Assailing the impugned order, Mr.D.Baskar, learned counsel appearing for the appellants would submit that the first appellant is the elder brother of the second appellant and appellants 2 and 3 are father and mother of the minors Suriya @ Subatheeshkumar, Dhanusri, Harisri and Pradeep. It is an admitted fact that the petition mentioned property belongs to one Mottaiya Chettiar through a Partition Deed dated 30.04.1990 and later he executed a Settlement Deed in favour of his grand sons namely, the minors Suriya @ Subatheeshkumar, Dhanusri, Harisri and Pradeep by mentioning clearly not to alienate the property until the minors attained majority. Since the first appellant has been named as guardian of the minors, appellants 2 and 3, who are father and mother of the minors, are also added as parties. Learned counsel appearing for the appellants would further submit that as the first appellant has been in need of money for the educational expenses of the minors and also for their maintenance and that there is no water facility in the petition mentioned property and therefore, there is no possibility for cultivation, the first appellant decided to sell away the property so that they can deposit the entire sale

proceeds into a Nationalised Bank and utilise the accrued interest for the educational expenses and maintenance of the minors.

3.It is seen that the above guardian O.P. petition has been filed seeking permission of the Court to appoint the first appellant as guardian for minors Suriya @ Subatheeshkumar, Dhanusri, Harisri and Pradeep and to permit him to sell the petition mentioned property on behalf of the above said minors. When it is the submission of the learned counsel appearing for the petitioners that the first appellant is in need of money for the educational expenses of minors and also for their maintenance and that there is no water facilities in the petition mentioned property and therefore cultivation is not possible, the appellants should have mentioned the better reasons, for which they are in need of money and they are not able to bear the expenses, namely, the School expenditure, Tuition fees, medical expenses, monthly maintenance etc. But, in the averments made in the affidavit filed in support of the petition, there is no mention about the expenses towards education and maintenance of the minors. Therefore, this Court, finding no infirmity in the impugned decretal order, grants liberty to the appellants to move an appropriate application with reasons, if any. Accordingly, the appeal stands dismissed. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vga

To

1.The Principal District Judge, Villupuram.

2.The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mr.D.Baskar Advocate SR.NO.33202

MP CO
SDR 16/12/2020

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