

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**AND**

**THE HON'BLE SRI JUSTICE K.LAKSHMAN**

**CMA.No.770 of 2019**

**JUDGMENT:** *(Per the Hon'ble Sri Justice K. Lakshman)*

Assailing the order dated 02.07.2019 in OP No.10 of 2019 passed by the IX Additional Chief Judge, City Civil Court, Hyderabad, the appellants preferred the present appeal.

2. *Vide* aforesaid order, the Court below dismissed the application filed by the appellants under the provisions of the Guardians and Wards Act, 1890 (for short 'the Act') seeking permission to appoint the 1<sup>st</sup> appellant, father of the minors *viz.*, Sara Anurag and Sara Pushkar, as guardian, to accord permission to the 1<sup>st</sup> appellant to sell the subject property i.e. house bearing No.2-2-1107/152 and 153 admeasuring 126.66 square yards situated at New Nallakunta, Hyderabad.

3. The appellants are wife and husband. They are the natural parents of the minors i.e. Sara Anurag and Sara Pushkar, who are studying 10<sup>th</sup> class and 7<sup>th</sup> class respectively.

4. According to the 1<sup>st</sup> appellant, he has purchased the subject property in the name of his two minor children by paying the entire sale consideration and got the sale deed registered on 27.08.2016 in their name. According to the 1<sup>st</sup> appellant, they are residing in a rented house situated at Kulsumpura Police Colony, Jiyaguda, Hyderabad and the

children are studying in a School near to the said rented house. According to the appellants, for the convenience of their minor children, they are residing in the said rental house.

5. The appellants further submit that the subject property is situated in New Nallakunta and that they are expecting more sale consideration and by disposing of the subject property, they are intending to purchase a property which is near to the School of their children. According to them, they would spend the entire sale consideration to be received from the sale of the subject property to purchase a new property in the name of the minors, close to the School and that they are ready to add some more money for purchase of new house.

6. The appellants would contend that a paper publication was taken in local newspaper against the respondents/all concerned, but no objections were received. During trial before the Court below, the appellants themselves examined as PWs.1 and 2, the maternal grand parents of the children as PWs.3 and 4 and one Mr. Shivraj, an independent witness, as PW.5.

7. On consideration of the entire record including the evidence both oral and documentary, the Court below dismissed the Guardian O.P. Feeling aggrieved by the impugned order, the appellants preferred the present appeal under Section 47 of the Act.

8. Heard Sri Mohd. Abdul Basith, learned counsel for the appellants.

9. Learned counsel for the appellants would contend that the appellants would like to purchase a property which is near to the School of their children for the purpose of their convenience and welfare. They are expecting an amount of Rs.45,00,000/- towards the sale consideration from out of the sale of the subject property and they are proposing to purchase a new house in the name of the minor children in the Jiyaguda locality for the same amount of Rs.45,00,000/-. Learned counsel would further submit that appellant No.1, father of the minor children, is ready to spend one more lakh for the purpose of purchasing the new property. He would further contend that he has examined 5 witnesses to prove the said contentions.

10. According to the learned counsel, the Court below without considering the said aspects and also the contentions of the appellants about purchasing of new property in the name of the minors by adding one more lakh extra towards the consideration for purchase of the property in Jiyaguda area, dismissed the OP without assigning proper reasons. With the said contentions, learned counsel for the appellants prayed for allowing the appeal.

11. On perusal of the entire record, it is not in dispute that the 1<sup>st</sup> appellant, father of the minor children, purchased the subject property under Ex.A-1 registered sale deed dated 27.08.2016. The minor children i.e. Sara Anuraj and Sara Pushkar have been studying 10<sup>th</sup> class and 7<sup>th</sup> class, respectively, in a School situated in Jiyaguda area. According to the appellants, they are now residing in a rented house in Kulsumpura

Police Colony, Jiyaguda, Hyderabad and that they would like to purchase a property in the locality near to the School for the welfare and advantage of the children by selling the subject property. Except contending the distance and welfare of the children, the appellants did not explain any other reason. Admittedly, the appellants did not file the original of Ex.A-1 sale deed in the Court below.

12. As discussed above, the appellants' claim of purchase of new property is only a topographical ground and there is no other ground at all. The appellants did not mention any *bonafide* reason to sell away the minors property. Admittedly, Master Anurag is studying 10<sup>th</sup> class and he is aged about 16 years and Master Pushkar is studying in 7<sup>th</sup> class and is aged about 13 years.

13. It is not in dispute that the subject property is in the name of minors and if the said property is to be sold, it should be only for the purpose of welfare of the children and not for any other purpose. In the present case, the appellants did not explain any satisfactory reasons and there is no tangible evidence to accept the contentions of the appellants that they are intending to purchase the property in Jiyaguda locality for the purpose of welfare of the children. There is no material on record to satisfy the legal requirement to consider that the sale would be for the benefit of the minors.

14. On the analysis of entire evidence including the depositions of PWs.3 to 5, there is no other tangible evidence in support of the contention of the appellants. It is settled principle of law that the Court

has to consider the welfare of the minor children for the purpose of granting permission to sell the property belongs to the minors. Whereas in the present case, there is no evidence much less tangible evidence to show that the appellants, though the parents of the minor children, wants to dispose of the said property for the welfare of the minor children. The Court below *vide* impugned order, has rightly rejected the permission sought by the appellants to sell the property of the minors. We are satisfied with the reasons given by the Court below in the impugned order.

15. In view of the above discussion, there is no circumstance that warrants interference with the order passed by the Court below. Hence, the appeal is dismissed.

No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

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**M.S. RAMACHANDRA RAO, J**

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**K.LAKSHMAN, J**

**January 24, 2020.**  
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