

FAT 246 of 2021
With
IA. No. CAN 1 of 2021

Gaurav Kumar Agarwal
Vs
Pramod Kumar Agarwal
(Via Video Conference)

Mr. Nilay Sengupta
Mr. Debapratim Sengupta
....for the Appellant

Mr. Aniruddha Mitra
Mr. Sujit Banerjee
.....for the respondent

Party/Parties is/are represented in the order of their name/names as printed above in the cause-title.

This is an appeal under Section 47 of the Guardians & Wards Act 1890 (for short the 1890 Act).

The appeal challenges the order of the learned District Judge, South 24 Parganas on an application of the present appellant as well as the minor daughter of the present appellant represented by the appellant, on a petition under Section 29 of the 1890 Act.

It is submitted that the issue of disposing of the minor's share of assets in both office and residential spaces belonging to the family was considered by the learned District Judge.

The learned District Judge permitted the present appellant, that is the father of the minor, to dispose of 8 sq.ft. of the minor, undivided right over the office space upon the father/the applicant submitting an indemnity bond of Rs.50,000/-(Rupees Fifty Thousand) and creating a fixed deposit of Rs.5,00,000/-(Rupees Five Lakhs) in the name of the minor within a stipulated period.

The minor is not impleaded in this appeal and its connected application. However, the father as the natural guardian, the applicant. The respondent to this appeal, who was the defendant before the learned District Judge in Misc Case No. 75 of 2021, is the uncle of the minor.

Before proceeding to discuss the next issue, this Court is of the view that the minor requires to be impleaded through her natural guardian as a party to this appeal. Accordingly, leave is granted to the appellant to carry out the required amendment to the cause-title.

Let a copy of the appeal and its connected application be served on the minor through her natural guardian. Let an Affidavit-of-Service to the above effect be filed on the next date.

Now coming to the issue in this appeal, the attention of this Court is drawn by both the applicant/the father and the respondent/ the uncle of the minor to the fact that both the office space and the residential space stand mortgaged in favour of HDFC Bank.

The Bank is pressing hard for renewal of the mortgage. Therefore, in order to keep the loan commitment alive, it has become necessary to defreeze the minor's share in the assets being both the office and residential premises.

It is uniformly submitted by the parties that the learned Trial Court did not ascribe any reason for not permitting the disposal of the minor's share in the residential premises, although on *pari materia* consideration, allowed disposal of the share of the minor in the office space.

On a query of this Court connected to the mortgage market value valuation of the share in the residential space of the minor, on behalf of the appellant/the father a Supplementary-Affidavit is filed, Copy is served on the respondent.

From the Supplementary Affidavit at Paragraph 4 thereof, the mortgage market valuation of the minor's share comprising 31.6 sq ft. area in the residential flat and 10 sq. ft. of covered car parking space, has been valued cumulatively at around 2.5 lakhs. The valuation follows the State Government guidelines, which are available on the website.

Having heard the parties and closely considering the materials placed, this Court finds that in the interests of the family, financial viability as a whole, including that of the minor, the ends of justice would be served in the event the applicant/the natural guardian/the father is directed to put in a further interest bearing fixed deposit in the name of the minor of Rs.5,00,000/-(Rupees Five Lakhs only) and also submit an indemnity bond of Rs.50,000/-(Rupees Fifty Thousand only) with the undertaking that such fixed deposit in the name of the minor shall be submitted before the learned Trial Court on and by the 7th of January, 2022.

It is made clear that in the event the time limit granted to submit the indemnity bond along with the details of the fixed deposit are not adhered to by the applicant/the father, the order passed today will cease to have effect on and from the 8th of January, 2022.

Supplementary-Affidavit filed today be retained with the record.

FAT 246 of 2021 and its connected application being **IA No. CAN 1 of 2021** stand accordingly **disposed of.**

All parties to act on a server copy of this order downloaded from the official website of this Court.

(Krishna Rao, J.)

(Subrata Talukdar, J)