



CMA.No.1113 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2022

CORAM

THE HONOURABLE MS. JUSTICE P.T.ASHA

CMA.No.1113 of 2022

- 1.Manjunath
- 2.Minor. M.Lalith Kishore
- 3.Minor. M.Venika Sharshini

... Appellants/Petitioners

[Minors 2 and 3 are rep. by their next friend father Manjunath]

Vs.

- 1.Ramakkal
- 2.B.Ramesh
- 3.Minor.R.Manya
- 4.Rani
- 5.Radha
- 6.Rumkani

... Respondents / Respondents

[Minor Rep. by her next friend father 2nd respondent - B.Ramesh]

PRAYER : Appeal filed under Section 47 of Guardian and Wards Act, to set aside the Judgment and Decree passed in G.O.P.No.18 of 2020 on the file of the Principal District Court Krishnagiri by allowing the present civil miscellaneous appeal.



WEB COPY



CMA.No.1113 of 2022

For Petitioner : Mr.J.Pradeep

For Respondents : Mr.V.Achuthanandan [R1, R2,R4 to R6]
: [R.3 minor Rep. by R.2]

-

JUDGEMENT

Aggrieved by the rejection of their petition seeking permission of the Court to alienate the 2/18th share of the minors/appellants 2 and 3, they are before this Court. The facts briefly stated are as follows and the parties are referred to in the same ranking as before the Court's below.

2. The appellants herein had filed H.M.G.OP.No.18 of 2020 on the file of the Principal District Judge, Krishnagiri seeking permission of the Court to sell the 2/18th share of the minors appellants in the suit schedule properties. It is their case that the 1st appellant is the father of appellants 2 and 3. The petition suit mention property originally belonged to the one Balraj as his ancestral property. He had been allotted UDR Patta No.321 and he has been in continuous possession and enjoyment of the same.



3. The said Balraj is the husband of the 1st respondent and father of the respondents 2 and 4 to 6 and one Manjula who had died leaving behind her surviving the 1st appellant, her husband and appellants 2 and 3 her children as her legal heirs. On the demise of Balraj, the property devolved on the appellants and the respondents each being entitled to 1/18th share. Since the schedule mention property was not yielding much income and as amounts were required for the minor's education, health and other cares it was decided to sell the property.

4. The appellants and the respondents had accordingly entered into an agreement with one S.Sheik Rasheeth on 05.04.2018 in and by which the property was to be sold for a total consideration of Rs.10,00,000/- the advance of Rs.5,00,000/- was received. Thereafter, the petition was moved for obtaining Court permission for the sale. Therefore, the appellants had filed the above impugned petition seeking permission to alienate the property. However, the learned Principal District Judge, Krishnagiri by order dated 16.09.2021 was pleased to dismiss the above application stating that the parties have not been able to show any title document to prove that the property belonged to one Balraj. Aggrieved by the same, the appellants



CMA.No.1113 of 2022

are before this Court.

WEB COPY

5.The learned counsel for the respondent had nothing to say about the impugned order.

6. Heard the learned counsel for the appellants.

7. When the matter had come up on 29.09.2022, the 1st appellant was directed to deposit the minors' share in a Fixed Deposit account and he was directed to produce the Fixed Deposit receipts. Today, the Fixed Deposit receipts issued by the Indian Bank for a sum of Rs.60,000/- each in the names of the appellants 2 and 3 has been produced. The bank account has also been opened in the name of the Minors. Admittedly, the property belonged to both the appellants and the respondents. The minors appellants 2 and 3 and their father, the 1st appellants owned only 1/18th share in the property. The sale is on account of the fact that the property is not yielding sufficient income and also since it is not possible to enjoy the same jointly. To prove the bonafides, the amounts constituting the share of the minors/ appellants 2 and 3 has also been deposited in a Fixed Deposit account.



CMA.No.1113 of 2022

Further the appellants together own only a 1/18th share in the total extent.

The other sharers are keen on proceeding with the sale.

8. In the light of the above, the order passed by the Principal District Judge, Krishnagiri refusing to grant permission has to necessarily be set aside and is accordingly set aside and the appeal is allowed. No costs. It is directed that the 1st appellant shall produce a copy of the registered sale deed after its registration and the same shall be filed into the Court of District Judge, Krishnagiri in HMGOP.No.18 of 2000 within a period of a week from the date of execution of sale.

22.11.2022

Index : Yes/No
Internet: Yes/No
shr

To

1.The Principal District Court, Krishnagiri.

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



WEB COPY



CMA.No.1113 of 2022

P.T. ASHA, J,

shr

CMA.Nos.1113 of 2022

22.11.2022