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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2022

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.M.A.No.986 of 2022

G.Bhavani

...Appellant/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 47 of G.W.O.P Act, against the order dated 23.03.2022 passed in H.M.G.O.P.No.97 of 2021, passed by the Principal Judge, City Civil Court, Chennai.

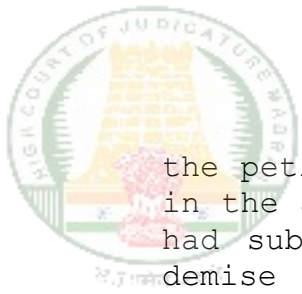
For Appellant : Mr.R.Kamaraj

J U D G M E N T

Challenging the dismissal of her petition filed under Section 8(2)(a) of the Hindu Minority and Guardianship Act, 1956, the mother of the minor petitioner is before this Court.

2. The facts in brief are as follows:-

The father of the minors had entered into a Joint Venture Agreement on 26.02.2021 with M/s.Sai Shrine Housing Private Limited. Under the terms of the Joint Venture Agreement, the owners, who are 5 in number and one of them being the father of the minors, i.e. late J.Gnanaprakash, was allotted a Flat with an un-divided share and cash of Rs.2,50,000/- to each of the owners. The Joint Venture Agreement has been entered into by the father of the minors. Further, a sum of Rs.1,00,000/- has been paid by the builder to Late J.Gnanaprakash on the date of the Joint Venture Agreement and the balance sum of Rs.1,50,000/- was to be paid at the time of the execution of the Power of Attorney. All of a sudden, within two months of the execution of the Joint Venture Agreement, the said J.Gnanaprakash died intestate on 15.04.2021 leaving behind him surviving the petitioner and his two minor children, namely, G.Monishwaran and G.Sivadharshini. On the death of the said J.Gnanaprakash,



the petitioner, and her son and daughter had inherited his share in the above property, each being entitled to 1/3 share and they had substituted him in the Joint Venture Agreement. With the demise of J.Gnanaprakasam and as minors had acquired an interest, the mother of the minors had filed a petition under Section 8(2)(a) of the Hindu Minority and Guardianship Act, 1956 in H.M.G.O.P.No.97 of 2021 before the learned Principal Judge, City Civil Court, Chennai seeking permission to proceed further with the Agreement. The learned Judge, however, dismissed the said petition on 23.03.2022 on the ground that the property is being sold for a price lower than the market value. Challenging the same, the mother of the minors is before this Court.

3. Heard the learned counsel for the appellant and perused the materials available on record.

4. The petition that is filed before the Court below is one seeking permission of the Court to sell the minors' property. This is a case, where the father had already entered into a Joint Venture Agreement along with his siblings for selling the property for a particular price and the consideration was the allotment of a Flat along with some cash component. The father has entered into the agreement with his full consent. The minors are only stepping into the shoes of their father after his demise and they cannot now seek to have the Agreement re-drafted with new terms, particularly, when the other co-owners have accepted or acted upon the same. In fact, the father of the minors had accepted the terms of the Joint Venture Agreement and received a sum of Rs.1,00,000/- on the date of the entering into the Joint Venture Agreement. Therefore, the refusal to grant permission to the appellant to proceed further with the Agreement is mis-conceived.

5. Accordingly, the Civil Miscellaneous Appeal is allowed. The order dated 23.03.2022 passed in H.M.G.O.P.No.97 of 2021 is set aside. No costs. Necessary permission is granted to the petitioner herein to execute and register the Power of Attorney in respect of the minors' 2/3rd undivided share in the share of J.Gnanaprakash in favour of the builder, K.Velayudham, Director - M/s.Sai Shrine Housing Private Limited in respect of the undivided share of land, measuring 826 sq.ft in the total extent of property measuring 1965 sq.ft. morefully described in the C and E schedule together with the flats F1, T-7, T-8 with the power to sell the same to third parties as per the Joint Venture Agreement dated 26.02.2021 executed between J.Gnanaprakash and others and M/s.Sai Shrine Housing Private Limited, represented by its Director K.Velayudham and to deposit



the minor's share of a sum of Rs.50,000/- each in a nationalized bank by retaining the Flat No.F3 allotted to the appellant and the minors morefully described as the D schedule property in the petition under Appeal.

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s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

srn

To

1. The Principal Judge,
City Civil Court,
Chennai.

Copy to

The Section Officer,
V.R.Section,
High Court
Madras 104.

+1 CC to Mr.R.Kamaraj, Advocate sr 29316.

C.M.A.No.986 of 2022
and C.M.P.No.7303 of 2022

SMI (CO)
SP(09/06/2022)