



C.M.A.No.1921 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2022

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.1921 of 2022

A.Umamaheswari

...Appellant

Prayer: Civil Miscellaneous Appeal is filed under Section 47 of the Guardian and Wards Act, 1899, to set aside the fair and final order dated 14.03.2022 made in G.O.P.No.267 of 2021 on the file of the Principal District Court, Salem.

For Appellant : Mr.T.Murugamanickam
Senior Counsel

Advocate
Commissioner : No Appearance.
Mr.P.Umakanthan
Senior Member,
Salem Bar.



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JUDGEMENT

The above appeal is filed challenging the order of the Principal District Judge, Salem, in G.O.P.No.267 of 2021, in and by which, the learned Judge had dismissed the petition filed by the appellant herein seeking permission to sell the petition mentioned property including the share of the minor, Ritika Sri to one A.Shajahan s/o. Akbar Basha.

2. The only ground on which the petition was dismissed is on the ground that the appellant herein had not disclosed the total sale consideration. The learned Judge was of the opinion that in the recitals the vendors, which included the minor had only stated that the property was being sold for a sum of Rs.201/- per sq.ft. However, the sale deed did not describe the extent of the property. Since, the dismissal was only on this limited ground, I had by my order dated 2/6



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01.09.2022 directed Mr.P.Umakanthan, Senior Member of the Salem Bar to be appointed as an Advocate Commissioner to measure the property, subject matter of the petition with the help of surveyor and submit his report.

3. The Advocate Commissioner has submitted his report dated 11.11.2022 together with a sketch describing that the 1st item of the suit property measures 28 cents and the 2nd item of the property, 6 $\frac{1}{4}$ cents, totalling an extent of 34 $\frac{1}{4}$ cents.

4. In fact, the schedule to the sale agreement would give the extent of the property. Be that as it may, considering the fact that the minor's interests were involved the help of the Advocate Commissioner was sought for.

5. An extent of 34 $\frac{1}{4}$ cents converted into sq.ft would measure

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14,917.68 Sq.ft and the total sale consideration as per the terms of the agreement of sale would be $14,917.68 \times 201$, which is equal to a sum of **Rs.29,98,453.68/-**.

6. The learned senior counsel appearing on behalf of the petitioner would submit that the purchaser shall purchase the property for a sum of Rs.30,00,000/-. Considering the above facts and also taking into account the welfare of the minor child, the appellant is permitted to sell the property, which includes the share of the minor child.

7. The appellant shall file a copy of the sale deed into the Court, once it is executed. The amount falling to the share of the minor shall put into interest earning Fixed Deposit. A copy of the Fixed Deposit receipt shall also be filed along with the copy of the sale deed. The petitioner mother is permitted to withdraw the interest once in three

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months for the welfare of the minor child.

8. In the result, the Civil Miscellaneous Appeal is allowed and the order passed by the learned Principal District Judge, Salem in G.O.P.No.267 of 2021 is set aside. No costs.

29.11.2022

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Index : Yes/No

Speaking order/non-speaking order

To,

The Principal District Court,
Salem.

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P.T.ASHA, J.,

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