



CMA.No.2280 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2022

CORAM

THE HONOURABLE MS. JUSTICE P.T.ASHA

CMA.No.2280 of 2022
and
C.M.P.No.17542 of 2022

Smt.Nagalakshmi

... Appellant

Vs.

Nil

... Respondent

PRAYER : Appeal filed under Section 47 of the Guardian and Wards Act,1890 to set aside the order of the learned Principal District Judge, Salem dated 30.08.2022 in G.O.P.No.110 of 2022 only in so far it relates to the deposit of Rs.25,00,000/- from the sale consideration amount before the Court through Demand Draft.

For Petitioner : Mr.Sugiridha Selvaraj

For Respondent : Mr.Abdul Mubeen for Canara Bank.



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JUDGEMENT

Challenging the dismissal of her petition filed in G.O.P.No.110 of 2022, on the file of the Principal District Court, Salem seeking permission to sell the share of the minor Tarun Velar in the suit schedule property, the appellant/mother is before this Court. The facts which preceded the filing of the appeal is briefly set out hereunder:-

2. The appellant/mother would contend that the minor is the son of herself and deceased Ragunathan. The suit property in question belonged to the said Ragunathan he having purchased the same under a sale deed dated 28.10.2005 and registered as Document No.3146 of 2005. The said Ragunathan died intestate on 05.01.2021 leaving behind the appellant his wife and the son minor Tharun Velar as his surviving legal representatives. Both the wife and son are entitled to an equal half share in the suit property. Since the property did not yield any income and the petitioner/ mother was unable to earn any income which was require to meet out the educational expenses and other sundry expenses of the minor she had wanted to alienate the property.



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3. Further, late Ragunathan had availed of a loan from Canara Bank and the said loan had also become a non performing asset as per the bank parlance. Since the bank had threatened to initiate recovery proceedings, the petitioner/mother had approached the bank seeking to settle their dues. The bank had offered a one time settlement of Rs.24,50,000/- and the down payment of Rs.50,000/- was paid. The balance was to be paid on or before 30.11.2021. Therefore, in order to meet the educational and other needs of the minor and to settle the dues of the bank, the petitioner/ mother had entered into a sale agreement dated 04.04.2022 with one Mr.S.Madhan son of late N.Shanmugam. The total sale consideration that was offered was a sum of Rs.33,75,000/-. Since this amount would go along to settle their dues leaving a considerable amount to meet the expenses of the minor, the petitioner/ mother was eager to proceed with the sale. However, since Tarun was a minor, she had taken out the petition subject matter of this appeal.

4. The Principal District Judge, Salem by her judgment and decree dated 30.08.2022 was pleased to pass an order to sell the property, subject to the condition that a sum of Rs.25,00,000/- by way of a demand draft should be deposited to the credit of the O.P. and thereafter, the amounts



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were directed to be deposited in a nationalized bank till the minor attains majority. The sale deed was directed to be filed into the Court. The petitioner is aggrieved by the Clause directing her to deposit the sum of Rs.25,00,000/- since the very sale has been entered into with the intent to settle the dues of the deceased Ragunathan with the Canara Bank, Salem town, Branch Salem and release the property from the encumbrance.

5. It is now brought to the notice of the Court that the amount has also been settled and there is no dues to the bank. Mr. Abdul Mubeen appearing for the Canara Bank whose assistance this Court had taken to confirm as to whether there was a OTS proposed has confirmed the above. The learned counsel for the petitioner has informed that the amounts have been paid from out of the amounts received from the purchase of the suit schedule property. The counsel would further assures that out of the remaining amounts the share of the minor would be deposited into the minors name in any nationalized bank drawing interest.

6. In view of the above, the order passed by the Principal District Judge, Salem directing the deposit of Rs.25,00,000/- to the credit of the minor's account is set aside. The permission to sell the suit property is



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confirmed and only that portion of the order directing the deposit of Rs.25,00,000/- is modified.

7. Therefore, the above Civil Miscellaneous Appeal is allowed with a direction that the appellant shall deposit the share of the minor petitioner into the nationalized bank drawing interest till the minor attains majority. The petitioner/ mother is permitted to withdraw the quarterly interest for the maintenance and up keep of the minor petitioner. The learned counsel has given a calculation and according to the calculation a sum of Rs.9,25,000/- falls to the share of the minor petitioner. This amount (Rs.9,25,000) will be deposited in any nationalized bank or interest earning deposit on or before 21.11.2022. No costs. Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes/No
Internet: Yes/No
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(The Registry is directed to issue order copy tomorrow i.e. on 28.10.2022)



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- To
1. The Principal District Judge, Salem
 2. The Section Officer,
V.R. Section,
High Court, Madras.



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P.T. ASHA, J,

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