



C.M.A.No.122 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

C.M.A.No.122 of 2021

1.K.Prakash

2.P.Vijayalakshmi

... Appellants

Vs.

K.Govindarajan

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 47 of the Guardian and Wards Act, 1890 against the fair and decretal order in G.O.P.No.201 of 2018 dated 30.01.2019 on the file of the learned Principal District Judge, Villupuram.

For Appellants : Mr.N.Suresh

For Respondent : No appearance

JUDGEMENT

The present appeal has been filed by the unsuccessful petitioners before the learned Principal District Judge, Villupuram in G.O.P.No.201 of 2018. By the said petition, the petitioners wanted the court below to



C.M.A.No.122 of 2021

grant an order permitting them to sell the property as per the sale agreement dated 11.10.2018 in favour of one Gunalan and to deposit the amount in the names of the minors in anyone of the nationalized banks for the welfare of the minors, which was negatived by the court below. The parties are referred to in the same array as before the court below.

2. It is the case of the petitioners that, they are married and the first petitioner and the respondent are brothers. The respondent got some properties by way of settlement from his father and out of love and affection, the respondent executed a settlement deed in respect of eight items of properties in favour of the second petitioner to be enjoyed by the petitioners during their lifetime and thereafter, the properties will devolve upon the legal heirs of the petitioners. The petitioners begot two male children, who are studying in V and III standard at the time of filing the petition and for giving them better education and upbringing them, as the means of the petitioners were less, the second petitioner intended to sell one of the properties in favour of one Gunalan, had entered into a sale agreement dated 11.10.2018 on behalf of the minors, for a sale consideration of Rs.60,000/- and received Rs.10,000/- as advance. Unless



C.M.A.No.122 of 2021

the petitioners are permitted to sell the property, grave prejudice will be caused to the minors and therefore, they have filed a petition before the learned Principal District Judge, Villupuram in G.O.P.No.201 of 2018. The court below, after analysing all the exhibits, more particularly, Ex.P.1, which is the settlement deed entered into between the respondent and the second petitioner, held that the properties cannot be alienated by the petitioners and that they can only enjoy the same till it devolves upon the legal heirs of the petitioners and dismissed the petition. Aggrieved by which, the present appeal has been filed by the petitioners.

3. The learned counsel appearing for the appellants/petitioners submitted that, the property was sought to be sold for the welfare of the minors, which has not been properly appreciated by the court below while negating the petition. It is the further submission of the learned counsel that only because the settlement deed had prohibited the alienation by the petitioners for the reasons stated in the petition that the petitioners have approached the court below seeking permission to sell the property, which is for the well-being and welfare of the minors, which has lost site of while dismissing the petition and accordingly, the same



C.M.A.No.122 of 2021

requires interference.

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4. Heard the learned counsel appearing for the appellants/petitioners and also perused the materials available on record.

5. A perusal of the order impugned reveals that, the settlement deed/Ex.P.1 was executed by the respondent in favour of the second petitioner. The settlement deed clearly stipulates that, the life estate is given to the petitioners to enjoy the properties till their lifetime and there is no provision for alienation of the properties. The properties upon the minors attaining the majority is to devolve upon them and it cannot be alienated, in fact Ex.P.1 does not premise any scenarios wherein the petitioners are permitted to alienate the properties. When alienation is made impermissible under Ex.P.1, the second petitioner, who has received the settlement deed from the respondent cannot be permitted to sell the property, which would be against the interest of the minors at a later point of time. Rightly appreciating the above, the court below, on the basis of the stipulations in the settlement deed, has rejected to petition seeking to grant permission and the said order being reasonable,



C.M.A.No.122 of 2021

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justifiable and sustainable, does not require any interference by this Court.

6. Accordingly, the Civil Miscellaneous Appeal is dismissed and the fair and decretal order passed by the learned Principal District Judge, Villupuram in G.O.P.No.201 of 2018, dated 30.01.2019 is confirmed. No costs.

19.12.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

1.The Principal District Judge, Villupuram.

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



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C.M.A.No.122 of 2021

M.DHANDAPANI, J.,

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C.M.A.No.122 of 2021

19.12.2023