



Civil Miscellaneous Appeal No.1670 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1670 of 2024

1.G.Dinesh
2.D.Ramya

... Appellants

Vs.

Nil ... Respondent
Civil Miscellaneous Appeal filed under Section 47 of Guardian and Wards Act, 1890, against the Fair and Decreetal order dated 20.09.2022 passed in HMGOP No.30 of 2018 on the file of Principal District Judge, Kancheepuram District at Chengalpet.

For Appellant : Mrs.M.Vijayalakshmi

JUDGMENT

The present appeal has been filed against the final direction that was issued by the Court below while allowing the petition filed by the appellants under Section 8(2) (a) of the Hindu Minority and Guardian Ship Act in HMGOPNo.30 of 2018 dated 20.09.2022.



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2. Heard the learned counsel for the appellants and carefully perused the materials available on record.

3. The appellants approached the Principal District Judge, Kanchipuram, seeking for the permission of the Court to mortgage the petition mentioned property which stood in the name of their minor son Akilesh for the purpose of completing the construction of the residential house. The Tribunal on considering the claim made by the appellants and on appreciation of the documents that were marked, came to a conclusion that the appellants must be permitted to mortgage the property and that it will meet the ends of justice and safeguard the interest of the minor.

4. Having come to the above conclusion, the Court below directed the appellants to deposit the amount received by them after mortgaging the property before the Court below. This portion of the order has been put to challenge in the present appeal.



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5. In the considered view of this Court, the very purpose of mortgaging the property was to utilize the money and to put up a residential house. This object was well appreciated by the Court below and the Court below came to a conclusion that such a residential premises would meet the ends of justice and safeguard the interest of the minor. If this residential premises is to be constructed, the appellants must have the money to do it. If the money that is obtained by mortgaging the property is deposited in the Court and the bank / financial institution is brought into the scene, the whole purpose of filing the petition will get defeated. In view of the same, this Court is inclined to interfere with the final direction that was issued by the Court below directing the appellants to deposit the amount before the Court below.

6. Paragraph No.9 of the order passed by the Court below in HMGOP No.30 of 2018 dated 20.09.2022 is modified as follows :-

“The appellants are permitted to mortgage the petition mentioned property and the mortgaged sum is permitted to be utilized by the appellants for the purpose of putting up the residential premises. The process of completing the



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construction of the residential premises shall be completed within a period of one year. Thereafter, the appellants are directed to furnish the details of the expenditure that was incurred towards the construction before the Court. There shall be a further direction to the appellants to furnish the details of the repayment of the mortgage amount once in six months before the Court below till the entire amount is repaid back to the bank / financial institution.

7. In the result, this Civil Miscellaneous appeal is disposed of the above terms. No costs.

12.07.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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N.ANAND VENKATESH.,J
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To,
Principal District Judge, Kancheepuram District at Chengalpet.

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