



C.R.P.NO. 2288 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-12-2024

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

C.R.P.No. 2288 of 2024

C.T.D. Babu

S/o. Late. C.T. Dhandapani, 99-A, Nanneri Kazhagam
St, Coimbatore 641 001.

(Natural Guardian Next Friend/Father of his Twin
Minors B. Maanavika and Minor. B. Nilanika Both are
aged about 6 years)

Petitioner(s)

Vs

C.T.D. Rajendran

S/o. late. C.T. Dhandapani, No.11/3-A, West Club
Road, Race Course, Coimbatore 18.

Respondent(s)

Prayer: Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 26.02.2024 passed by the learned Principal District Judge, Coimbatore, rejecting the original petition in G.W.O.P. CFR No.17604 (at the numbering stage itself) as not maintainable.

For Petitioner(s):

Mr.P.K.Ganesh

For Respondent(s):

M/s. B.Girija for RR1 to 6

Mrs.R.S.Indira for R8

R7 – Notice returned as "No such person"



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ORDER

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Challenging the order of the learned Principal District Judge, Coimbatore, dated 26.02.2024 rejecting the Original Petition in G.W.O.P. FCR No.17604 filed by C.T.D.Babu, the father of the twin minors (i) B.Maanavika and (ii) B.Nilanika, aged about 6 years, seeking permission to sell the shares of the minors' property and also to declare the earlier agreement of sale dated 29.12.2017 as unenforceable and not binding on the petitioner at the numbering stage itself, as the petition was not maintainable, the petitioner has come forward with the present revision petition.

2. The revision petitioner is the father of the minors. The revision petitioner/father filed a petition seeking permission to sell the minors' share in the property which was bequeathed in favour of the minors. Earlier, he sought permission to sell 3/4th share of the minors Belina Rosabel, Aaron Festus, Maanvika, Nilanika on the basis of the agreement dated 29.12.2017. The court below had granted permission by order dated 06.03.2019 in G.W.O.P.No.54 of 2018 on the file of the Principal District Judge, Coimbatore. However, the said sale could not be fructified since the buyer was evading the completion of the transaction by giving lame excuses.



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3. Be that as it may, now, the 8th respondent offered to purchase the property for a total sale consideration of Rs.81,25,000/-. Hence, the order rejecting the original petition as not maintainable is under revision. In the said application while seeking permission to sell the minors' share, a relief of declaration was also sought to declare the earlier agreement dated 29.12.2017 as unenforceable. Only on finding such relief, the court below has rejected the petition at its threshold.

4. This court is of the view that to declare an agreement as enforceable, a petition under the Guardians and Wards Act, 1890, is not maintainable. Once the agreement has not been enforced within the time, it is axiomatic that it has no value. Such agreement will not create any right or interest over the immovable property.

5. In the light of the above, the relief of declaration cannot be maintainable under the Guardians and Wards Act, 1890 and it is for the petitioner to take a recourse to the other proceedings to cancel the earlier agreement of sale.

6. Although the court below should not have denied the petition at its threshold regarding permission to sell the minors' share, it was compelled to do so before it was numbered, since the relief of declaration was bundled together. In light of the aforementioned, this court is inclined to permit the petitioner to file a



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fresh petition seeking permission to sell the minors' share.

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In the result, the civil revision petition is dismissed. The petitioner/father is permitted to file a fresh petition seeking permission to sell the minors' share in the immovable property. On such petition being filed, the learned Principal District Judge shall decide the petition on its own merits and dispose of the same as expeditious as possible. No costs.

12-12-2024

To

1.The Principal District Judge, Coimbatore, Coimbatore District.



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N.SATHISH KUMAR.J.,

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C.R.P.No.2288 of 2024

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