



C.M.A(MD)No.292 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.292 of 2024

and

C.M.P.(MD)No.3833 of 2024

Radhika

... Appellant

Vs.

Nil

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 47 of Guardian and Wards Act, against the order, dated 10.10.2023, made in G.W.O.P.No.39 of 2023, on the file of the Principal District Judge, Thoothukudi.

For Appellant : Mr.N.Muthuvijayan

For Respondent : Nil

JUDGMENT

The present Civil Miscellaneous Appeal is filed against the order passed in the G.W.O.P.

2. The appellant is the mother of the minor child. The deceased was the appellant's husband and he was in possession of several properties which are



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agriculture lands. After the demise of the appellant's husband, she is not able to carry out agricultural activities. The appellant intends to get her elder daughter married and the appellant also has a minor son who is studying in 7th standard. In order to conduct the marriage of her elder daughter, the appellant is in need of funds, therefore, she is intending to sell the property which is more than 20 acres. Since her son is a minor, the appellant sought permission from the District Court to sell the properties. However, the District Court has granted permission to sell one property alone but has refused to grant permission to sell the other properties.

3. The contention of the appellant is that the entire extent of the property cannot be divided. Moreover, there is no pathway to certain properties and the appellant being a widow is not able to manage the entire land. If there is any encroachment, she ought to take steps to remove encroachment through legal process and she is not having funds for such legal process. Since she is in need of money to conduct the marriage as well as for higher education of her son, she has filed this appeal.

4. This Court directed the appellant to appear before this Court in order to ascertain the necessity of money. The appellant and her minor son appeared



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before this Court. The appellant concurred with the contents of the affidavit and the minor child also expressed that he is not inclined to carry out agricultural activities and he wants to pursue higher studies. Therefore, this Court is considering the same and is inclined to allow this appeal.

5. Hence, the judgment and decree passed by the District Court is set aside and permission is granted to the appellant to sell the entire extent of the property stated in the appeal. However, the mother of the deceased and two children of the deceased are entitled to share. The share of the minor shall be deposited in any interest accruing account. The other share holders shall withdraw their shares. On attaining majority, the appellant's son shall withdraw his share with accrued interest. Further in the document it shall be mentioned that the property was sold for marriage expenses and for the minor son's education expenses.

6. With the above said directions, the Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

26.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

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- 1.The Principal District Judge,
Thoothukudi.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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