



C.M.A(MD)No.188 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 18.07.2024

CORAM

**JUSTICE N. SESHASAYEE
and
JUSTICE P.VADAMALAI**

C.M.A(MD)No.188 of 2023

Chellamani ... Appellant/Petitioner

Vs.

Nil ... Respondent/Respondent

Prayer: Appeal filed under Section 19 of the Family Courts Act, 1984 and Section 47 of the Hindu Minority and Guardianship Act, 1956, to set aside the order dated 17.09.2022 made in G.W.O.P.No.106 of 2021 on the file of the District Judge, Family Court, Theni.

For Appellant :Mr.R.G.Shankarganesh

JUDGMENT

(Judgment of the Court was delivered by N.Seshasayee, J.)

This appeal is now preferred challenging the order dismissing the petition in G.W.O.P.No.106 of 2021, rejecting the prayer of the appellant



C.M.A(MD)No.188 of 2023

to sell a piece of property belonging to his minor children under Section 8 of the Hindu Minority and Guardianship Act, 1956.

2. The facts are as below:

- a) On 25.06.2007, the appellant was married to one Uma Maheswari and the couple gave birth to two children namely Siddharth and Suveathini. Both of whom born respectively on 06.11.2008 and 04.08.2012 and both the children are now studying in T.V.S.Lakshmi Matriculation Higher Secondary School, Madurai.
- b) While so, the appellant claims that he had purchased the petition schedule properties in the name of his wife under sale deeds dated 10.07.2013 and 04.10.2013.
- c) While so, on 04.03.2015, the appellant's wife Uma Maheswari passed away and consequently, the properties that were in her name devolved equally on the appellant and his two minor children.



C.M.A(MD)No.188 of 2023

WEB COPY

d) Both the items of properties are vacant sites and hence, the

appellant seeks that he may be permitted to alienate the said properties along with the shares of the minors for two reasons:

(i) That he finds it difficult to manage the properties as there are potential threats of the said properties being encroached by the third parties; and (ii) That he needs to meet the educational expenses of his children. For that, the appellant had circulated two receipts for the payment of tuition fees to the tune of Rs.70,247/- and Rs.1,18,417/- respectively.

e) The trial Court however was not considered it necessary to let the appellant to sell the properties. This order is now under challenge.

3. The appellant has established requisite grounds for the sale of the properties. However, he is still required to establish the factum of sale consideration that he is likely to obtain since this Court is anxious that the interest of children is protected.

4. Accordingly, this matter is remanded back to the trial Court and the appellant is required to establish the best price for which the properties



C.M.A(MD)No.188 of 2023

could be sold. The trial Court on being satisfied that the properties are likely to be fetched for the best price, is required to grant necessary permission for the sale of the properties.

5. This Civil Miscellaneous Appeal is disposed of accordingly. No Costs.

(N.S.S., J.) (P.V.M., J.)
18.07.2024

NCC : Yes/No
Index : Yes/No
PM

To

- 1.The District Judge,
Family Court,
Theni.
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A(MD)No.188 of 2023

N. SESHASAYEE, J.
and
P.VADAMALAI, J.

PM

C.M.A(MD)No.188 of 2023

18.07.2024