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C.M.A.No.2338 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.12.2025

CORAM

THE HONOURABLE MRS. JUSTICE R. KALAIMATHI

C.M.A.No.2338 of 2025

Mayakrishnan

...Appellant

vs.

Harikrishnan

...Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 47 of Guardian and Wards Act, 1890, to set aside the Order made in G.O.P.No.172 of 2023 dated 02.04.2024 passed by the Principal District Court, Cuddalore and allow G.O.P.No.172 of 2023.

For Appellant : Mr.M.Venkatakrishnan

For Respondent : No appearance

JUDGMENT

This Civil Miscellaneous Appeal has been preferred against the Order dated 02.04.2024 made in G.O.P.No.172 of 2023 on the file of the Principal District Court, Cuddalore.



2. Parties are indicated herein as per their litigative status and ranking before the Trial Court.

3. The petition was filed by the father of the minor Sabarinathan seeking permission of the Court to sell the properties of the minor Sabarinathan. He was born on 14.08.2008. The said properties came into the hands of the petitioner through partition deed dated 08.12.2008. The petitioner executed a settlement deed on 15.12.2010 in favour of his minor son Sabarinathan. For meeting the educational expenses and for the welfare of the minor in order to sell the properties, he has filed this petition. The petitioner has appointed the respondent as guardian of the minor Sabarinathan. Hence, he has been arrayed as respondent.

4. Despite the receipt of notice, the respondent neither appeared nor appeared through his counsel before the Trial Court.

5. At trial, to substantiate the petition details, the petitioner and one Subramanian have been examined and seven documents have been marked.

6. Upon consideration of the oral and documentary evidence and after hearing the petitioner's side arguments, the Trial Court has observed

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that having settled the properties in favour of the minor, the petitioner does not have any right to file such application and to substantiate the reasons mentioned in the petition, no documents have been marked and chose to dismiss the petition.

7. It is deducible from the case records that the petition mentioned properties came to the share of the petitioner by way of the partition deed dated 08.12.2008 and thereafter, he has executed the settlement deed in favour of his minor son appointing his brother as his guardian in respect of item Nos.1 to 21 found in the 'D' schedule of the partition deed. It is pellucid that the settlement deed is acted upon and patta has been mutated in the name of his minor son. The respondent is none other than his own brother. On notice, the respondent did not appear before the Court. Non-appearance of the respondent before the Trial Court raises doubt upon the *bona fides* of the petitioner. Law is well settled that the paramount consideration is the welfare of minor. The petitioner has executed the settlement deed in favour of his minor son Sabarinathan in respect of 21 items of properties out of 22 items received through family partition deed dated 08.12.2008. This application is taken out only for two items of properties mentioned in the partition deed (item Nos.13 and 16). In such circumstances, this Court does not find any infirmity or perversity in the order of dismissal of the Trial Court. The petitioner lacks *bona fides*.
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This Court also does not find any good reason to upset the findings of the learned Trial Judge.

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8. In view of the aforesaid narrative, this Civil Miscellaneous Appeal stands dismissed. There shall be no order as to costs.

18.12.2025

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
apd

To

1. The Principal District Court, Cuddalore.
2. The Section Officer,
VR Section,
High Court, Madras



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R.KALAIMATHI, J.,

apd

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