

**HONOURABLE SRI JUSTICE G.CHANDRAIAH**

**AND**

**HONOURABLE SRI JUSTICE M.S.K.JAISWAL**

**C.M.A.No.205 of 2015**

**JUDGMENT:** (Per. Hon'ble Sri Justice M.S.K.Jaiswal)

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This Civil Miscellaneous Appeal is directed against the order dated 27.06.2013 passed in G.W.O.P.No.717 of 2012, whereunder the learned Principal District Judge, West Godavari at Eluru, dismissed the said petition filed by the appellant seeking permission to sell the schedule property in an extent of 300 square yards of house site in plot Nos.49 and 50 in R.S.No.362 of Jangareddygudem panchayat and Mandal, West Godavari District, which stands in the name of his minor son Challa Siva Sree.

The appellant is the father of the minor child by name Challa Siva Sree, who is now said to be aged about 12 years. The schedule property has been purchased from Tadikamalla Nagamani in the name of the minor child under a registered sale deed dated 01.07.2009 for a valuable consideration of Rs.78,000/-. It is submitted that the minor child had an accidental fall which resulted in grievous injuries over his chest ribs; that continuous medical treatment is required; that he has been advised to be taken to Super Specialty Hospital for better treatment and, therefore, huge amount has been required to be spent for the treatment of the minor child.

The appellant further submitted that unable to overcome the financial commitment pursuant to the treatment of the minor child, they had entered into an agreement of sale of the property in question with one Smt.Uppala Srilakshmi, wife of Uppala Ramarao of Jangareddygudem, on 03.09.2011 for a valuable consideration of Rs.4,20,000/-, out of which a sum of Rs.1,50,000/- has already been received and spent for the treatment of the minor child.

The Court below has dismissed the application holding that when the appellant wants to sell the schedule property so as to meet the medical

expenses of his minor son, it is rather baseless to make such mention in the relief portion that he would deposit the sale consideration in any Nationalized Bank in the name of his minor son.

During the course of hearing, the appellant and his wife along with their minor son Challa Siva Sree have been called for and we have enquired them about the need and necessity of disposing of the property in question. After having heard the parties, we are satisfied that it is a fit case to accord permission to the appellant to sell the property of the minor child Challa Siva Sree subject to the following conditions:

“Whatever balance of sale consideration that will be received should be deposited in the name of the minor child Challa Siva Sree in any Nationalized Bank by way of Fixed Deposit for a period of Six years and the same shall not be encashed till the minor child attains the age of majority. However, the appellant/father of the minor child is entitled to withdraw interest accrued thereon quarterly. If there is any violation, appropriate action will be initiated against the appellant.”

With the aforesaid conditions, the Civil Miscellaneous Appeal is allowed. The impugned order dated 27.06.2013 passed by the Court below is set aside. No order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

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**G.CHANDRAIAH, J**

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**M.S.K.JAISWAL, J**

09.04.2015

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