

**HON'BLE SRI JUSTICE G. CHANDRAIAH
AND
HON'BLE SRI JUSTICE M.S.K.JAISWAL**

C.M.A.No. 68 of 2015

Dated: 19.02.2015

Between:

Mutyalapati Narasimha Rao

... Appellant

Vs.

Mutyalapati Venkata Subbamma.

... Respondent

-

**HON'BLE SRI JUSTICE G. CHANDRAIAH
AND
HON'BLE SRI JUSTICE M.S.K.JAISWAL
C.M.A.No. 68 of 2015**

JUDGMENT: (Per Hon'ble Sri Justice MSK Jaiswal)

This appeal is directed against the order of the XIII Additional District Judge, Narasaraopet in GWOP No.40 of 2014, dt. 23.12.2014, by and under which the learned trial Judge has refused the request of the appellant/petitioner to alienate the petition schedule property.

2. Admittedly, the petition schedule property, which comprises of a house bearing Door No.20-3-100, over an extent of 116.37 sq. yards land situated at Ila Bazaar, Narsaraopet, Guntur district, was acquired by the appellant by virtue of a Will Deed dt. 20.12.1996, said to have been executed by his grand father – M. Chalamaiah. After the death of the testator, which took place on 23.11.2002, the appellant/petitioner became absolute owner thereof, and by exercising his rights as such, the

appellant has executed a registered Gift Deed dt. 25.06.2009 settling the schedule property in favour of his two minor sons, who are now aged about 9 years and 7 years. Now, the appellant/petitioner is seeking permission to sell the said property to meet the educational and other expenses of his minor sons.

3. The trial Judge has refused to accord permission on the ground that the appellant/petitioner has failed to prove any pressing necessity for alienating the property, that too to meet the educational expenditures of the minor children. Hence, the present appeal.

4. Mainly, the appellant is seeking permission of the Court to alienate the property only to meet the educational and other related expenses of the minor children. Admittedly, the minor children are of tender age and studying 2nd class and 1st class. Therefore, it is difficult to accept the claim of the appellant that there are any compelling circumstances to alienate the property to meet the educational expenses of the minor children, which the appellant has gifted himself to the minors. No other material is placed on record to show that there is any pressing necessity for selling the property gifted to the minor. The proposed sale does not appear to be in the interest or the welfare of the minor children. Therefore, the learned trial Judge, taking all the aspects into consideration, has refused to accord permission.

5. Upon reconsidering the material on record and having heard the learned counsel appearing for the appellant, we are of the opinion that this is not a fit case where permission can be granted to the appellant to alienate the property for the welfare of the minor children. There are no merits in the appeal and the same is liable to be dismissed.

6. In the result, the CMA is dismissed. As a sequel, the miscellaneous petitions, if any pending, shall stand closed accordingly. No costs.

G. Chandraiah, J.

M.S.K. Jaiswal, J.

Dt.19.02.2015

Kv

**HON'BLE SRI JUSTICE G. CHANDRAIAH
AND
HON'BLE SRI JUSTICE M.S.K.JAISWAL**

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

C.M.A.No. 68 of 2015

(Judgment of the Division Bench delivered by
Hon'ble Sri Justice MSK Jaiswal)

Dated: 19.02.2015

Kv