

Master Anil Vs. State

Master Anil Vs. State

SooperKanoon Citation : sooperkanoon.com/1127412

Court : Delhi

Decided On : Feb-14-2014

Judge : Valmiki J. Mehta

Appellant : Master Anil

Respondent : State

Advocate for Pet/Ap. : Mr. Rajiv Aneja

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + FAO No.21/2013 14th February, 2014 % MASTER ANIL Through: Appellant Mr. Rajiv Aneja, Advocate. Versus STATE Respondent Through: CORAM: HONBLE MR. JUSTICE VALMIKI J.MEHTA To be referred to the Reporter or not?. VALMIKI J.

MEHTA, J (ORAL) 1. This first appeal is filed under Section 47 of the Guardians and Wards Act, 1890 impugning the judgment of the Guardianship Court dated 12.9.2012 which has dismissed the petition of the minor petitioner filed through his natural mother for sale of the share of the minor in the lands which are situated in village Mamoorpur, Narela, Delhi-110040. As per the valuation report, the share of the petitioner in the subject land would come to Rs.2,41,535/- plus Rs.1,04,895/-.

2. Learned counsel for the appellant argues that the court below has committed an obvious illegality because there cannot be a better person for the minor than his own natural mother for taking care of the minor from the sale proceeds of the

immovable property/agricultural land and which was required to be sold to take care of the educational and other needs of the minor. It is argued that what is the use of an immovable property for the minor if the minor cannot take benefit of the same on account of necessity with respect to education and other requirements of life.

3. I completely agree with the arguments urged on behalf of the appellant and I therefore grant the necessary permission to the petitioner through his natural mother and guardian Smt. Kamla Devi to sell the share of the petitioner-Master Anil in the properties i.e (1) 1/3rd share of the minor out of 1/32 share of land in property bearing Khata No.72/65 Min. bearing Khasra No.18/20 (4-16), 19/14/1 (3-16), 15(4-16), 16(4-16), 25/1(3-16), 180/3 (0-6), total measuring 21 Bighas 6 Biswa and (2) another property with 1/3rd share out of 1/80th share of the land bearing Khata No.234/1333 Min. bearing Khasra no.12/23/1(3-12), 24(4-16), 25 Min (4-03), 13/21 (309) 22(4-16), 180/13(0-5) total land measuring 23 bigha 1 biswas, in village Mamoorpur, Narela, Delhi-110040. It is also ordered that the amount for which property will be sold will be first deposited in a fixed deposit in a bank and interest of the same will be used for incurring the expenses for the upkeep of the minor. In case, there is a need to withdraw lumpsum amount from the fixed deposit then on showing a valid necessity an application can be filed before the concerned Guardianship Court for withdrawing of the amount in lumpsum. The amount which will be available on sale of the share of the minor in the subject agricultural lands will be put in a fixed deposit in a nationalized bank of the choice of the natural guardian of the petitioner Smt. Kamla Devi.

4. I may note that there was no objection filed by any person before the Guardianship Court objecting to the sale of the agricultural lands for the benefit and necessity of the minor.

5. The appeal is allowed in terms of the aforesaid observations, leaving the parties to bear their own costs. FEBRUARY14 2014 Ne FAO No.21/2013