

(1970) 07 MAD CK 0027
In the Madras High Court

Narasimham Naidu and Another

APPELLANT

Vs

S. Ayilu Naidu and Others

RESPONDENT

Date of Decision : 10-07-1970

Acts Referred:

Hindu Minority and Guardianship Act, 1956 — Section 8

Citation : (1970) 83 LW 761 : (1971) 1 MLJ 228

Hon'ble Judges : B.S. Somasundaram, J

Bench : Single Bench

Judgement

B.S. Somasundaram, J.—The short question that arises for consideration in this appeal is as to whether a sale deed executed by the natural guardian of minors, without the previous permission of the Court, is void. Sub-section (2) of Section 8 of the Hindu Minority and Guardianship Act, (XXXII of 1956), states that the natural guardian shall not, without the previous permission of the Court, (a) mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the Immovable property of the minor, or (b) lease any part of such property for a term exceeding five years or for a term extending more than one year beyond the date on which the minor will attain majority. The contention of the appellant that the sale deed, Exhibit A-1, is void, is based on this provision. Sub-section (3) of Section 8 renders such a transaction only voidable and not void ab initio. This rule under Sub-section (2) is enacted for the benefit and protection of the minor, and any transaction cannot be void, because in such a case the minor may lose the benefit of the same even if it is to his advantage. Sub-section (3) renders it only voidable at his instance. He may repudiate it or adopt it, if he chooses. The learned District Munsif erred in dismissing the suit holding that the transaction is void. The lower appellate Court has correctly remanded it for disposal on merits.

2. The C.M.A. fails and the same is dismissed with costs.