

IN THE COURT OF DISTRICT JUDGE-7, AURANGABAD

(Before S.J.RAMGADIYA)

Civil M.A.No. 354/2022**EXH. NO.**

Niral S/o Sagar Mandalik
 Age : 11 years, Occ. : Education
 Minor U/b of his real mother
 Smt.Girija W/o Sagar Mandalik
 Ag : 42 years, Occ. : Household
 R/o : Flat No.D-602, Paithan Raod,
 Amrut Sai Sara City, Nakshatrawadi,
 Aurangabad

.... **Applicant****Versus**

1. The state of Maharashtra.
Through District Collector,
Aurangabad.
2. Smt.Sudha W/o Harishandra Mandalik
Age : 75 years, Occ.: Household,
R/o : B-604, Shakya Vihar, CHS Limited,
V.B.Phadke marge, Sane Guruji Nagar,
Mulund East, Mumbai- 400081.

.... **Respondents**

**AN APPLICATION UNDER SECTION 8 OF THE HINDU MINORITY
AND GUARDIANSHIP ACT, 1956.**

Shri. B.A.Rathod, Adv., for the applicant

Order below Exh.1(Passed on this 15th day of February, 2023)

1. This application has been filed under Section 8(2)(a) of the Hindu Minority and Guardianship Act, 1956, for permission to sell the immovable property of the minors.

2. Applicant is minor and this application came to be filed through his natural guardian i.e. real mother Smt.Girija W/o Sagar Mandalik. The father of minor and husband of Girija, namely, Sagar Mandalik, during his life time purchased one property bearing Flat No.D-602, ad-measuring 67.31 square meters i.e. 724.52 square feet area consisting of four rooms and WC Bath constructed in land Gut No.8 in the building namely, “Amrut Sai Sara City”, Nakshatrawadi, within the municipal limits of Aurangabad alongwith his mother, namely, Sudha W/o Harischandra Mandalik. This purchase was done vide registered sale-deed 3509/2013 dated 01.11.2013 for valuable consideration.

3. It is further stated by the applicant that the Sagar Harishchandra Mandalik died on 11.01.2021. In this backdrop it is case of the guardian of the minor that after the death of Sagar Harishchandra Mandalik the name of the mother of minor and minor mutated in the record of right after getting legal heir-ship certificate.

4. It is further case that the mother of minor is a widow lady, she has no source of income, therefore, she shifted to Nashik and presently residing at Nashik. The minor is 11 years old and pursuing his studies. They are not having any residential house and want to purchase the property at Nashik and so she wants to sell out the property of minor. It also contended that as the mother of minor has no source of income, she is unable to incurred expenses of the minor in respect of school, tuition etc. the mother of the deceased i.e. respondent Sudha Harischandra Mandalik has also no objection. They entered into agreement to sale in favour of Rajivkumar Zabbulal Shukla and Mamta Rajivkumar Shukla on 09.10.2022 for valuable consideration amount of Rs.32,00,000/-. The said agreement to sale is notarized with public notary, Aurangabad. The mother of the minor accepted

earnest amount of Rs.3,20,000/- by way of cheque. Thus, she undertakes that she will not misuse the amount and will invest the same in the name of minor for purchasing residential house or plot in the name of minor and so she prayed for permission to sell the property of minor applicant.

5. After filing this application, a notice was published in the daily circulating newspaper in the area where the other relatives or friends of the deceased are expected to reside for calling their objections if any. However, after sufficient period, none appeared to oppose this application for permission to sell the above immovable property.

6. During the hearing of this application, the applicant has produced on record the documents i.e. death certificate of her husband Sagar Harishchandra Mandalik, agreement to sell and paper publication. The applicant mother of minor as well as respondent Sudha also filed their affidavits. Respondent has no objection. The death certificate of deceased Sagar Harishchandra Mandalik shows that he died on 11.01.2021. The contentions in the affidavits shows that the mother of minor shifted to Nashik with minor, there is no earning member in her family. The agreement to sell shows that the property has been agreed to sell for valuable consideration of Rs.32,00,000/-. The mother of the minor wanted to purchase the property at Nashik and require some money for the purpose of education of minor. Considering the requirements, I hold that the instant transaction is for the betterment and benefits of minor. The sale proceed is going to be utilized for the betterment of the minor. Hence, I found no reason to reject this application for permission to sell the property.

7. Considering the age of minor it is necessity to give direction to deposit some amount in the name of minor. Hence, the following order-

O r d e r

1. Application is allowed.
2. The mother of minor applicant by name Girija Sagar Mandalik is permitted to sell the share of minor in the suit property i.e. Flat No.D-602, ad-measuring 67.31 square meters i.e. 724.52 square feet area consisting of four rooms and WC Bath constructed in land Gut No.8 in the building namely, "Amrut Sai Sara City", Nakshatrawadi, Aurangabad
3. The mother of minor applicant namely Girija Sagar Mandalik is directed to deposit 10% of the sale amount of the flat in the name of minor Niral Sgar Mandalik in nationalized bank till attending his majority and report the compliance.

Date : 15.02.2023

(S. J. Ramgadiya)
District Judge-7,
Aurangabad

CERTIFICATE

I am affirm that the contents of this P.D.F file order are same, word to word, as per the original Order.

Name of Stenographer	: R.V.Kulkarni
Court	: District Judge-7, Aurangabad.
Date:	: 15.02.2023
Order signed by the	
Presiding Officer.	: 17.02.2023
Order uploaded on	: 03.03.2023