

Received on	:	30	12	2025
Registered on	:	30	12	2025
Decided on	:	18	06	2026
Duration	:	YY	MM	DD
		00	05	21

**IN THE COURT OF 4th ADDITIONAL DISTRICT JUDGE,
BHARUCH, AT: BHARUCH.**

CIVIL MISC. APPLICATION NO. 238 OF 2025.

Exh. No. 32

Applicants:

1. Hajra Shakirbhai Patel
2. Minor Saad Shakir Ibrahim Patel
Parent Hajra Sakir Patel
3. Minor Sujan Shakir Ibrahim Patel
Parent Hajra Sakir Patel
All Residing At. Surat, 112, A-4, EWS Housing, Kosad,
394107 - Surat

VERSUS

Opponents:

1. Jarina wd/o Ibrahim Patel
At. Surat, 112, A-4, EWS Housing, Kosad, 394107-Surat
2. Najmaben d/o Yakub Vali w/o Siraj Yakub Ghuna
At. Sarod, Dal Faliyu, Ta. Jambusar
Dist Bharuch
3. Saiyad Ibrahim Yakub Vali Patel
At. Ta. Jambusar, Talavpur, N/r Khara Masjid
Ta. Jambusar
4. Shabnam d/o Ibrahim Patel w/o Rajik Shah
At. H-2, 134, F-9, EWS Housing, Kosad, Amroli
394107 – Surat

5. Sabina d/o Ibrahim Patel w/o Kifayatullah Patel
At. Ta. Jambusar, Kanpur Deh, Ta. Jambusar.
6. Samim Suhel Patel
At. 112. F-4, SMC Quarters, Kosad, Amroli 395107-Surat
7. Minor Muhmmad Sef Suhel Patel
Parent Samim Suhel Patel
At. 112. F-4, SMC Quarters, Kosad, Amroli 395107-Surat
8. Minor Safvan Suhel Patel
Parent Samim Suhel Patel
At. 112. F-4, SMC Quarters, Kosad, Amroli 395107-Surat

=====

Ld. Advocate Shri N. H. Patel for the Applicants.

Ld. Advocate Shri S. S. Patel for the Opponent Nos. 1 to 8.

=====

=====

Subject:- An application for Appointment of Guardian as well as permission to sell undivided share of the minor children in the property.

=====

-:: J U D G M E N T ::-

1. This application is filed by the applicant under the provisions of Section-8 of the Guardianship and Wards Act, 1890 for appointment of applicant no. 1 as a guardian of the minor applicant nos. 2 & 3 and getting permission to sell undivided share of the minors in the property situated at Vi. Ta. Jambusar, agricultural land bearing Account No. 1024, Block No. 3244, admeasuring Hectare 2-37-75, assessed at Rs. 35.00. The said land is of the old tenure category and is more particularly described in Para-1 of the application.

2. The short facts of the case are :- It is the case of the applicant that Late Ibrahim Yakub Patel, the original owner of the land, passed away on 05/12/2023. Upon his death, his legal heirs became joint owners of the property. Further, Suhel Ibrahim Yakub Patel passed away on 29/03/2024, and his heirs are Opponent Nos. 6, 7, and 8 in this case. The other son, Salman Ibrahim Yakub Patel, died unmarried and without children on 21/10/2021. Shakir

Ibrahim Patel, son of Late Ibrahim Yakub Patel, died on 27/01/2018, leaving behind his wife Hajra Shakirbhai Patel and two minor children, Saad Shakir Ibrahim Patel (DOB: 20/12/2011) and Shuzan Shakir Ibrahim Patel (DOB: 22/10/2013), who inherited a 1/7th undivided share in the land. Hajra Patel, being the natural mother and guardian of the minors, seeks permission to sell her own share as well as the minors' share in the property. The sale proceeds are intended to be used for the children's education, religious education, maintenance, and upbringing. Since the minors' father has passed away, court permission is required for the sale of the minors' property interests. Accordingly, the application has been filed seeking declaration and appointment of Hajra Patel as the guardian of the minors and permission to execute the sale deed for the applicants' and minors' share in the property.

3. The opponents are duly served with the notices and opponent nos. 1 to 8 have appeared before this court through their learned advocate and filed written reply vide Exh.7. In which they have specifically stated that Hajra Shakir Patel is the natural mother and guardian of the minor children, who are financially dependent following their father's death and agree that the proposed sale of the property is necessary to meet the minors' education, maintenance, upbringing, and welfare needs and hence, they have "No Objection" if the prayer of the applicant is granted.

4. In support of the application, the Applicant no. 1 – Hajra Shakir Ibrahim Patel widow of Ibrahim Yakub Patel has examined herself at Exh.8 and she has deposed the facts are mentioned in the application. She has produced the documentary evidence in respect of the property described in Para-1 of the application. She has deposed in her deposition recorded at Exh.8 that her husband viz. Shakir Ibrahim Yakub Patel, son of Late Ibrahim Yakub Patel, died on 27/01/2018 and her children viz. Saad & Shuzan are minors and their DOB is 20/12/2011 and 22/10/2013 respectively.

5. The following documents are produced on record.

Sr.	Documents.	Exh.
-----	------------	------

No.		
1	Xerox copy of Aadhaar Card of Applicant No. 1	20
2	Xerox copy of the School Leaving Certificate of Applicant No. 2, minor Saad Shakir Ibrahim Patel.	21
3	Xerox copy of the Aadhaar Card of Applicant No. 2, minor Saad Shakir Ibrahim Patel	22
4	Bonafide Certificate issued by the school of Applicant No. 3.	23
5	Xerox copy of the Aadhaar Card of Applicant No. 3, minor Shuzan Shakir Patel	24
6	Original extract of Village Form No. 7 relating to Block No. 3244.	25
7	Original extract of Village Form No. 8-A pertaining to Account No. 1024.	26
8	Xerox copy of the pedigree/heirship record of the legal heirs of late Ibrahim Yakub Patel.	27
9	Original death certificate of Late Shakir Ibrahim Yakub Patel	28
10	Copy of the newspaper publication/public notice published in the Sandesh daily newspaper.	29

6. She has further deposed that she has no any source of income and in the interest of her minors children namely Saad & Shuzan, and seeks permission to sell her own share as well as the minors' share in the property.

7. Before delving into the merits of the case, it is pertinent to note that, under the Guardians and Wards Act, 1890, the appointment of a guardian is governed primarily by Section 7, which empowers the Court to appoint a guardian of the minor's person, property, or both, if it is satisfied that such an appointment is necessary for the minor's welfare. Section 10 of the Act prescribes the form in which an application under Section 7 is to be filed and relates solely to procedural compliance; it does not confer any substantive right or power. The Court, upon receipt of such an application, must first ascertain whether there exist sufficient grounds to proceed. At the stage of inquiry, the Court's primary consideration is the welfare of the minor, which is the paramount consideration and guides the entire exercise of judicial discretion.

The concept of welfare is broad and includes factors such as the minor's financial, educational, physical, moral, and religious well-being. Section 17(2) of the Act further specifies the factors to be taken into account in determining the minor's welfare, including the minor's age, sex, religion, background, and the conditions and wishes of the parents or guardians. The Court must satisfy itself that appointing a guardian is necessary and would serve the minor's best interests before making any order.

8. Heard the Ld. Advocates for the parties. Having gone through the evidence of the application, it is undisputed fact that the applicant is having the minors children namely Saad & Shuzan and she is widow and she is maintaining her minors. It is now undisputed fact that the land as narrated in Para-1 of the application was of the joint ownership and now the applicant, her minors and opponents have share in the property situated at Vi. Ta. Jambusar, agricultural land bearing Account No. 1024, Block No. 3244, admeasuring Hectare 2-37-75, assessed at Rs. 35.00. She has right to sell the agricultural land but as children are minors, she has submitted this application for granting permission to sell the said agricultural land. Before granting the paramount consideration is required to be given towards the interest of the minors. Herein this case, the applicant is the widow and she is the mother of the said minor and therefore definitely she is maintaining her minors and she is taking the care of the said minors. As contended by the applicant, mother of the minors, at present she is maintaining her minors and she is also incurring the expenditure towards their educations and therefore, she requires the money. Furthermore, a Public Notice was issued as per the rules, which is on record vide Exh-29, pursuant thereto the opponents have also specifically stated by submitting written reply that Hajra Shakir Patel is the natural mother and guardian of the minor children, who are financially dependent following their father's death and agree that the proposed sale of the property is necessary to meet the minors' education, maintenance, upbringing, and welfare needs and hence, they have "No Objection" if the prayer of the applicant is granted. Thus, in view of the aforementioned facts and circumstances, this application deserves to be allowed and permission is required to be granted to the applicant for selling property

situated at Vi. Ta. Jambusar, agricultural land bearing Account No. 1024, Block No. 3244, admeasuring Hectare 2-37-75, assessed at Rs. 35.00 and in the interest of justice, I pass the following order.

--: O R D E R :-

- 1) The application of the applicant is hereby allowed.
- 2) The Applicant no. 1, Hajra Shakir Ibrahim Patel wd/o Shakir Ibrahim Yakub Patel is hereby appointed as the guardian of minors viz. Saad & Shuzan of their person and properties as mentioned in Para-1 of the application.
- 3) The applicant is hereby granted the permission to sell the property as narrated in Para-1 of the application i.e. situated at Vi. Ta. Jambusar, agricultural land bearing Account No. 1024, Block No. 3244, admeasuring Hectare 2-37-75, assessed at Rs. 35.00.
- 4) Guardianship Certificate u/s 7 of the Guardian and Wards Act, 1890 be issued to the applicant accordingly.
- 5) No order as to costs.

Signed and Pronounced in open Court today i.e. on this **18th** day of **June, 2026** at Bharuch.

Date: 18.06.2026
Place: Bharuch

(Virendra Bhikhubhai Rajput)
4th Additional District Judge
Bharuch
Code No. GJ 00692

M.M.S