



In the Court of Additional District Judge, Devbhoomi Dwarka @ Dwarka.

Civil Misc. Application No. 38 of 2025.

APPLICANTS :-~

Nimuben Ramjibhai Lavadiya.
Age about : 53 years, Occupation : House-hold,
Hindu by Religion, Residing at Bajrang Chawk,
Shankar Tekri, Shastrinagar, Jamnagar,
Taluka : Jamnagar, District : Jamnagar
herself and as natural guardian and grandmother
of Minor grandson Darshan Jayeshbhai Lavadiya,
Age about : 17 years, occupation : study, residing at
as stated above.

VERSUS

OPPONENTS :--

Nobody.

Application u/s. 8 of the Hindu Minority and
Guardianship Act, 1956 read with Sec. 29
of the Guardian and Wards Act, 1890.

.....
Appearance :--
Ld. Adv. Mr. B. J. Gohel, on behalf of applicant.
Nobody on behalf of opponent
.....

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

Addl. District Judge, Dwarka.

(1) The applicant Nimuben Lavadiya has filed this application under the provisions of Section 8 of the Guardian and Wards Act, 1890 read with Sec. Sec. 29 of the Guardian and Wards Act, 1890 and prayed that she may be appointed as a guardian of the minor grandson Darshan Jayeshbhai Lavadiya and also prayed to grant permission to sell and administer the property having share of minor for the purpose of his maintenance and education.

(2) The brief facts of the application are that :-

(A) Applicant Nimuben Lavadiya is a real grandmother of minor Darshan Lavadiya as he is son of Jayesh Ramjibhai Lavadiya and Anitaben Jayeshbhai Lavadiya who are happen to be Son and Daughter-in-law of applicant Nimuben Lavadiya. The son of applicant i.e. Jayeshbhai Lavadiya has been died on 18.05.2011, whereas daughter-in-law of applicant i.e. Anitaben Lavadiya has been died on 14.04.2018 and being a natural guardian, grandmother and next friend of minor Darshan Lavadiya minor is residing with her and applicant is taking all care of him and also bare all expenses of his live hood, clothing, food and study. The property being agricultural land more particularly described below in schedule "A" has been purchased by the applicant as natural guardian, grandmother and next friend of minor Darshan Lavadiya along-with other minor grandson Harsh Lavadiya and Janvi @ Janki Lavadiya and out of them Harsh Lavadiya and Janvi @ Janki Lavadiya have attained major age and Darshan Lavadiya is still minor. They have decided to sell this property for the purpose to their well being.

SCHEDULE "A"
Description of Immovable Property

Sr. No.	Name of Village	Khata No.	Old Survey No.	New Survey No.	Hec-Are-sq.mts.	Tenyor
1	Khatumba	708	42/paiki 1	634	0-84-15	old

(B) That Minor Darshan Lavadiya is co-owner of the said property along-with his elder brother Harsh Lavadiya and elder sister Janvi @ Janki Lavadiya. That Minor Darshan Lavadiya is at present studying in and residing with her grandmother i.e. present applicant. That all the co-owner of the above properties have decided to sell the same for the purpose of further study, welfare and better future of the minor and selling the above mentioned property is in the interest of minor. Since, Darshan Lavadiya, is still minor having age of 17 years, the applicant has filed the application to appoint her as a guardian of the minor and permit her to administer and sell the undivided share of the minor in the above mentioned property ad natural guardian, grandmother and next friend of minor Darshan Lavadiya.

(3) The public notice was issued in Devbhoomi Dwarka edition of daily news papers Divya Bhaskar but no one appeared before Court for contesting the present petition. Hence, no one has raised any objection against the prayer of the present petition. Hence the evidence produced by the applicant remains unchallenged.

(4) From the above referred submissions of the Ld. Advocate for the applicant, following points emanate for determination :-

1. Whether the applicant proves that she is entitled to get relief as prayed for ?

2. To what relief ?

(5) My findings on the aforesaid points are as under for the following reasons:~

1. In the affirmative.
2. As per final order.

~: R E A S O N S :~

Point No.1:~

(6) I have heard the Ld. Advocate for the applicant. Read the application, affidavit and the documentary evidences. I have also gone through the oral as well as the documentary evidence.

(7) Before deciding the present application, I would like to quote here the settled provision of law that when the person other than Collector or the guardian appointed by Will or instrument has been appointed or declared by the Court to be a guardian of the property of the Ward. He shall not without previous permission of the Court mortgage or charge or transfer by sale, gift, exchange or otherwise any part of the immovable property of his Ward or lease any part of their property for a term exceeding five years or for any term exceeding more than one year, the date on which Ward will ceased to be a minor. Further, when the Father or Mother of the child was recognized as natural guardian, in the absence of either of them, absolutely there is no need for him or her to get himself or herself to be appointed as guardian by the Court for the purpose of selling the immovable property of the minor. what is required under **Section 8(2)** of the Hindu Minority and **Guardian ship Act, 1956**, is only a permission from the Court to sell the immovable property of the minor. Furhter, there is difference between property of a minor and the undivided interest of a minor in the joint family property and 'the restrictions'

contained in Section 8 i.e. the requirement of obtaining previous permission of the Court before alienating immovable property of a minor would not apply in respect of an undivided interest of a minor in joint family property and whereas the Manager or Karta of the joint property could alienate the property without obtaining prior permission of the Court. The Hon'ble High Court of Gujarat in case between Jagrutiben Dharmeshbhai Suhagiya Vs. None, First Appeal No. 4894 of 2022, decided on 13.01.2023 has in para : 8 has observed that :-

"8. It appears from the law laid down by this Court that as far as Section 8 of the Hindu Minority & Guardianship Act, 1956 is concerned, while the same provides that the natural guardian shall not, without previous permission of the Court, alienate any immovable property of a minor, the learned Bench has differentiated between the property of a minor and the undivided interest of a minor in the joint family property. It clearly appears that the learned Coordinate Bench has laid down the law, which is still in force, as much as it was on the date of the judgement that 'the restrictions' contained in Section 8 i.e. the requirement of obtaining previous permission of the Court before alienating immovable property of a minor would not apply in respect of an undivided interest of a minor in joint family property and whereas the Manager or Karta of the joint property could alienate the property without obtaining prior permission of the Court. It is also clarified that the concept of a guardian in respect of an undivided interest of a minor in joint family property is excluded from the scope and purview of the Act and whereas the Act does not contemplate and deal with any guardians in respect of an undivided interest of a minor in a joint family property. According to the learned Coordinate Bench, Section 8 only deals with the powers and restrictions on powers of the natural guardians in respect of a minor's property, other than undivided interest in joint family property and whereas the words 'minors estate' and 'immovable property' of the minor must be construed, so as to mean, other than undivided interest of a minor in joint family property. It is also appears that having held as above, the learned Coordinate Bench had come to the conclusion that since the way the law does not require any permission for alienating undivided interest of a minor in joint family property, therefore, an application for such permission was misconceived."

(8) In the instant case, on filing the application by the grandmother, objections were called for by publication and no one has filed objection before this Court. Therefore, I am of the opinion, absolutely there is no infirmity in filing the application by the mother under **Section 8(2)** of the Hindu Minority and **Guardianship Act**, 1956, seeking permission to sell the property of the minor without obtaining orders from the Court to appoint herself as a guardian of minor. Kipping in mind the above proposition and discussions, I have to decide Point No.1.

(9) The applicant has filed her affidavit in evidence at Ex.07 and deposed on oath the facts mentioned in the application. The other co-owner of the said properties have also filed their affidavit in evidence at Ex. 8 & 9 and both of them have submitted on oath that they have no objection if the permission as sought for be granted in favour of the applicant.

(10) The applicant has produced the following documents in support of her case, which are as under :~

Sr. No.	Description of Documents.	Exh. No.
(1)	The copy of Adharcard of applicant Lavadiya Nimuben Ramjibhai.	11
(2)	The copy of Adharcard of co-owner Harsh Lavadiya.	12
(3)	The copy of Adharcard of co-owner Janki Lavadiya.	13
(4)	The copy of Minor Darshan Lavadiya.	14
(5)	The copy of birth certificate of co-owner Harsh Lavadiya.	15
(6)	The copy of birth certificate of co-owner Janvi Lavadiya.	16
(7)	The copy of birth certificate of minor Darshan Lavadiya.	17
(8)	The copy of death certificate of Jayeshbhai Lavadiya.	18
(9)	The copy of death certificate of Anitaben Lavadiya.	19
(10)	The copy of death certificate of Ramji Jesangbhai Lavadiya.	20
(11)	The copy of sale deed executed in favour of Minor Darshan Lavadiya and co-owner Harsh Lavadiya and Janvi Lavadiya.	21

(12)	The abstract of village Form No. 7 of agricultural land bearing Survey No. 634 (old S. No. 42 / paiki 1) of village : Khatumba, Taluka : Dwarka, District : Devbhoomi Dwarka.	22
(13)	The abstract of village Form No. 12 of agricultural land bearing Survey No. 634 (old S. No. 42 / paiki 1) of village : Khatumba, Taluka : Dwarka, District : Devbhoomi Dwarka.	23
(14)	The abstract of village Form No. 8-A of agricultural land bearing Survey No. 634 (old S. No. 42 / paiki 1), Khata No. 708 of village : Khatumba, Taluka : Dwarka, District : Devbhoomi Dwarka.	24
(15)	The abstract of village Form No. 6 of village : Khatumba, Taluka : Dwarka, District : Devbhoomi Dwarka (Entries)	25

(11) It becomes crystal clear from the abstract of Village Form No.7/12 and 8-A and other abstract of revenue record that property described in above Schedule "A" is running in the joint names of Minor Darshan along-with other co-owner and it also appears that Minor is having very meager share in the said property. As per Birth Certificates of minor it appears that he is still minor and considering the death of biological parents of the minor, it clearly appears that being the natural guardian, grandmother and next friend of minor the present applicant Nimuben Lavadiya is taking care for the maintenance and education of minor. The applicant has filed this application to appoint her as a guardian of minor and to grant permission to sell undivided share of the minor in property described above. The entire evidence on record produced by the applicant remained unchallenged as nobody came forward to contest the application, though notice was published in daily newspaper. Thus, considering the genuineness of the need to selling the property and in absence of any objection from any relatives or co-owner or any other persons, I have no reason to disallow this application, hence I answer Point No.1 accordingly in the affirmative and in the interest of justice following final order is passed :--

O R D E R

1. Civil Miscellaneous Application No. 38 of 2025 is hereby allowed.
2. The applicant viz. Nimuben Ramjibhai Lavadiya has been hereby appointed as legal guardian of person and properties of Minor Darshan Jayeshbhai Lavadiya and applicant is hereby also permitted to administer and sell the share of minor Darshan Jayeshbhai Lavadiya in the property describe in schedule "A" herein above.
3. However, the applicant is directed to sell the said property at market rate. She will not sell the said property in less than the present market value and the share of the minor from the consideration which she will receive by such sale, will be invested in the fixed deposit in any nationalized bank in the joint name of the applicant and minor till the minor attains majority and the applicant shall not take loan, advance etc. in any manner or any amount from the concerned bank without prior permission of this Court, but the applicant shall be entitled to withdraw periodical interest accrued from the said fixed deposit amount and the petitioner is strictly directed to use the said amount for the welfare of the minors.
4. The applicant is also directed to produce xerox copy of the such document showing that FDR is made, before this Court and same shall be treated as part of the record.
5. It is further directed to the applicant will submit certificate showing the present market value of the property in question.
6. Further, the applicant is directed to file undertaking or affidavit for the compliance of the above referred conditions.
7. No order as to costs.
8. Judgment pronounced today.

Date : 01/05/2026.

(Kaushikkumar Jashvantlal Modi)
Additional District Judge, Dwarka.
Code No.GJ00597

Self

Addl. District Judge, Dwarka.