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Duration	Y. M. D.
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IN THE HON'BLE COURT OF ADDITIONAL DISTRICT JUDGE,
DISTRICT KHEDA AT KAPADWANJ.

CIVIL MISCELLANEOUS APPLICATION NO.22 OF 2025

Exh.

APPLICANT:~

Prafulbhai Bhalabhai Solanki
Aged: 20 years, Occ: Agriculture
Guardian of
Minor Ashwinbhai Bhalabhai Solanki
Aged: 16 years
Both residing at : Navi Rakhiyal,
Rakhiyal,
Tal: Thasra, Dist: Kheda-388225

Versus

OPPONENT:~ No one

An application for appointment of guardian of the minor and for permission to sell the share of the minor in the agricultural land under Sections 7 and 29 of the Guardian and Wards Act, 1890.

APPEARANCE :~

For the Applicant	Ld. Advocate Mr. A. M. Kureshi
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~:: J U D G M E N T ::~

(1) The present applicant has filed this application before this Hon'ble Court seeking appointment as guardian of the minor and permission to sell the property of the minor under the provision of Sections 7 & 29 of the Guardian & Wards Act, 1890, on behalf of the minor, as the applicant, namely Prafulbhai Bhalabhai Solanki, being the elder brother of the minor Ashwinbhai Bhalabhai Solanki, is taking care of the minor and looking after his welfare.

(2) The facts, nutshell of the present application are as under :-

It is stated by the applicant that the applicant's father, namely, Bhalabhai Chaturbhai Solanki, expired on 09.10.2013, and the applicant's mother, namely Sonalben W/o. Bhalabhai Chaturbhai Solanki, expired on 12.03.2014. It is further stated that from the wedlock of his parents, two sons were born, namely the applicant Prafulbhai Bhalabhai Solanki and his younger brother Ashwinbhai Bhalabhai Solanki. The date of birth of the said minor Ashwinbhai Bhalabhai Solanki is 18.02.2009. After the demise of their parents, the applicant and his minor brother were residing with their uncle Lalabhai Chaturbhai Solanki, who take care of them and looked after their upbringing. After attaining majority, the applicant started taking care of his minor brother Ashwinbha Bhalabhai Solanki, who is presently residing

with the applicant and pursuing his studies. It is further submitted that the said minor Ashwinbhai Bhalabhai Solanki is the real brother of the applicant. Since the parents of the applicant have passed away, the entire responsibility for the maintenance, welfare, education and well-being of the minor has come upon the applicant after attaining majority. Therefore, the applicant is acting as the guardian and well-wisher of his minor brother. It is also stated by the applicant that he has no other source of income except the agricultural land. Therefore, it has become necessary for him to sell the immovable property of agricultural land for the purpose of the education, maintenance and livelihood of the minor. At present, the minor resides with the applicant Prafulbhai Bhalabhai Solanki, who is taking care of him as his guardian and well-wisher. Therefore, the applicant has prayed that he may be appointed as the guardian of the minor and permitted to sell the minor's share in the agricultural land for the welfare and benefit of the minor.

- (3) After the demise of the parents of the present applicant, the applicant has been looking after his minor brother as his elder brother. It is also stated in the application that the applicant, his minor brother and other family members are the joint owners of the agricultural land situated at Village Charan Nikol, Taluka Kathlal, District Kheda, the details of which are as under :

Name of Village	Khata No.	Survey No.	Hectar-Are	Aakar Rs-Paisa
Charan Nikol	129	96	2-95-08	14-80
Charan Nikol	129	95	1-06-69	5-02

Out of the agricultural land bearing Survey No.96, land admeasuring Hectare 0-48-00 Are, which falls to their share, is proposed to be sold. It has also been decided that the applicant and the minor Ashwinbhai Bhalabhai Solanki will not retain any share in the remaining land and therefore they will relinquish their rights from Survey Nos.96 and 95. Out of Survey No.96, two shares fall to their side and they have decided to take the amount of their share.

The applicant and other family members intend to sell the above land for the benefit of the minor. However, in the Form No.7/12 and Form No.8-A, the name of minor Ashwinbhai Bhalabhai Solanki is shown in the revenue record. Since Ashwinbhai Bhalabhai Solanki is a minor, his name is recorded as a minor in the revenue records. Therefore, as per law, permission of this Hon'ble Court is required to sell the property to a third party.

From the aforesaid land property, the minor has a share and therefore, as per the provision of Guardian and Wards Act, it is necessary to obtain the order of this Hon'ble Court for permission to sell the share of minor in the immovable property of land. The applicant undertakes that the amount received from the share of the minor will be used for the education, maintenance and welfare of the minor.

- (4) It is also submitted by the applicant that the minor is unable to maintain himself. The applicant is solely responsible for the

educational expenses and maintenance of the minor and for looking after him as his elder brother and natural guardian.

- (5) If the said land is sold, the amount received from such sale will enable the applicant to meet the expenses for the education, maintenance and welfare of the minor.
- (6) It is further stated that selling the agricultural land is in the interest of the minor and the amount received from such sale will be utilized solely for the benefit and welfare of the minor. The applicant undertakes to abide by any condition that may be imposed by this Hon'ble Court.
- (7) Since the agricultural land stands in the joint name of the applicant, his minor brother and other family members, the permission of this Hon'ble Court is necessary for selling the said land. Hence, the present application has been filed seeking permission to sell the share of the minor in the aforesaid property.
- (8) The applicant has led the oral evidence and produced documentary evidence are as under :-

(A) Oral evidence :-

Sr. No	Particulars	Exh./ Mark
1	Affidavit of Applicant-Prafulbhai Bhalabhai Solanki	7

(B) Documentary Evidence :-

Sr. No	Particulars	Exh./ Mark
1	Village Form No.8-A in respect of Khata No.129, Moje-village: Charan Nikol, Tal: Kathlal, Dist: Kheda	11
2	Village Form No.7 in respect of Block/Survey No.96, Moje-village: Charan Nikol, Tal: Kathlal, Dist: Kheda	12
3	Village Form No.7 in respect of Block/Survey No.95, Moje-village: Charan Nikol, Tal: Kathlal, Dist: Kheda	13
4	Copy of Death Certificate of applicant's father viz. deceased Bhalabhai Chaturbhai Solanki	14
5	Copy of Death Certificate of applicant's mother viz. deceased Sonalben W/o. Bhalabhai Chaturbhai Parmar	15
6	Copy of the Pedhigree	16
7	Birth Certificate of the minor Ashwinkumar Bhalabhai Solanki	17
8	Copy of the Aadhar Card of the applicant- Prafulbhai Bhalabhai Solanki	18
9	Copy of the Aadhar Card of the minor Ashwinbhai Bhalabhai Solanki	19
10	Closing pursis	22

(9) Heard the learned Advocate for the applicant and perused the records of the case. The applicant has filed his affidavit at Exh.7, wherein he has reiterated the facts stated in the application and supported the contents of the present application.

(10) After the institution of the present application before this Court, a

public notice was published in the daily news paper “Divya Bhaskar” on 03.12.2025, which is produced at Exh.20. In response to the said public notice, on the stipulated date, no person appeared before this Court either personally or through any legal representatives to raise any objection.

Further, the learned Advocate for the applicant has produced the consent pursis of the co-owners of the agricultural land vide Exh.21, wherein the co-owners have stated that they have no objection to selling the share of the minor from the agricultural land situated at Village Charan Nikol, Taluka Kathlal, District Kheda,, the details of which are as under:

Name of Village	Khata No.	Survey No.	Hectar-Are	Aakar Rs-Paisa
Charan Nikol	129	96	2-95-08	14-80
Charan Nikol	129	95	1-06-69	5-02

- (11) It is pertinent to note here that the applicant has filed the application under Section 7 of the Guardian and Wards Act, 1890. Therefore, it is necessary to refer the provisions of Section-7 of the Guardian and Wards Act which is as under:-

Power of the Court to make order as to guardianship :-

(1) Where the court is satisfied that it is for the welfare of a minor that an orders should be made---

(a) appointing a guardian of his person or property or both, or

(b) declaring a person to be such a guardian, the court may make an order accordingly.

(2) An order under this section shall imply the removal of any guardian who has not been appointed by will or other instrument or appointed or declared by the Court.

(3) Where a guardian has been appointed by will or other instrument or appointed or declared by the Court, an order under this section appointing or declaring another person to be guardian in his stead shall not be made until the powers of the guardian appointed or declared as aforesaid have ceased under the provisions of this act.

As per the provision of Section-7 of the Guardian and Wards Act, power of the Court to appoint a guardian of his person or property or both, or declaring a person to be such a guardian the Court may make an order accordingly.

When an application has been filed under Section 7 of the Guardians and Wards Act, the Court has to satisfy itself that there is ground for proceeding on the application. Then at the time of inquiry it has to see whether for the welfare of the minor an order should be made appointing a guardian of his person or property or both. Further, the Court has to satisfy that it is necessary to appoint a guardian for the welfare of the minor. Welfare of the minor has a very wide connection. Besides it has several factors including the financial, educational, physical, moral and religious.

Thus, there is nothing extraordinary in this case which may prompt me to deviate from the above statutory provision.

(12) Hence, in view of the above provision, facts, and oral as well as documentary evidence available on record, there appears to be no dispute, contest or objection against the prayer of the applicant. Upon perusal of the oral and documentary evidence on

record, this Court is of the opinion that the applicant has successfully proved the contents of the present application. Considering the welfare and interest of the minor, the applicant deserves to be appointed as guardian of the minor and permission deserves to be granted to sell the share of the minor in the agricultural land subject to certain conditions. Therefore, the following final order is passed in the interest of justice.

~:: O R D E R ::~

- 1) Civil Misc. Application No.22 of 2025 is hereby allowed.
- 2) The applicant– Prafulbhai Bhalabhai Solanki is hereby appointed as guardian of the minor and he is permitted to sell the share of his minor brother viz. Ashwinbhai Bhalabhai Solanki from the joint property of agricultural land as prayed in the application.
- 3) The applicant is permitted to sell the said share of his minor brother from the above said immovable property for the interest and welfare of minor and subject to the following conditions.
 - (i) The applicant shall use the said amount for the welfare, protection and benefits of the minor and in the interest of the minor.
 - (ii) The applicant shall maintain account of the said sale amount and shall produce the same before this Court, as and when required.
 - (iii) The applicant is directed to produce the certified copy of the sale-deed after selling the above said property within one month.

- (iv) The applicant is directed to give personal bond of Rs.1,00,000/- (One Lac only) as security for the performance of above said condition before this Court.

Pronounced in the open Court today on 17th April, 2026.

Date : 17.04.2026

Place: Kapadwanj.

(Kamleshkumar Somabhai Patel)

Additional District Judge,

Kheda at Kapadwanj.

Code No.GJ00532

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