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Decided on	18/07/2026
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**IN THE COURT OF 7TH ADDITIONAL DISTRICT
JUDGE, AT JETPUR, DISTRICT-RAJKOT**

Exhibit:___

Madhuriben Shaileshbhai Ambaliya,

Age- 36, Occ- Housewife,

Address:- Opp. Dr. Chetan Patel Hospital, Kanakiya Plot, Jetpur.

...Applicant

V E R S U S

None

...Opponent

Subject:- Application under Section 8 of Hindu Minority and Wards Act read with Section 29 of Guardian and Wards Act for permission to sell the property of minors on their behalf for the benefit of Minors.

APPEARANCE:

Ld. Adv. Mr. M.J. Thummar.

:: JUDGMENT ::

1. The applicant has filed this application under the provisions of Section 29 of The Guardian and Wards Act, 1890 and prayed to appoint her as guardian of minor children namely **Shreya Shaileshbhai Ambaliya, age-14 and Nijil Shaileshbhai Ambaliya, age-10** and also to permit her to sell the 1/3 undivided shares of the minors in the immovable property being an agriculture land bearing

Revenue Survey No. 531 paiki 1, Hector 0-80-94 sq. mtrs situated at Jetalsar gaam, Tal- Jetpur, District Rajkot.

2. The applicant is residing at Jetpur along with her minor children namely Shreya and Nijil Shaileshbhai Ambaliya, most respectfully submits that her husband late Shaileshbhai Damjibhai Ambaliya, expired on 13.04.2023, leaving behind the applicant and the aforesaid two minor children as his only class-I legal heirs. During his lifetime, the deceased, along with his brother Mukeshbhai Damjibhai Ambaliya, had jointly purchased agriculture land bearing revenue survey no.531 paiki 1, admeasuring hectare 0-80-94 sq.mtrs. (Acre 2-00 Gunthas), situated at Village Jetalsar gaam, Taluka Jetpur, by registered sale deed no. 1706 dt. 20.05.2017, each having an undivided 50% share therein. Upon the death of the deceased, his 50% undivided share devolved equally upon the applicant and the two minor children, and their names have accordingly been mutated in the revenue record vide mutation entry no. 8575 dt. 04.10.2023. It is the case of the applicant that the minor children are pursuing their education and, for their education, welfare, development and overall benefit, it has become necessary to alienate their respective undivided shares in the aforesaid property. The applicant has, therefore, filed the present application seeking her appointment as the guardian of the property of the minor children and permission to sell their respective undivided one third shares in the deceased's 50% undivided interest in the said property, undertaking to abide by any terms and conditions that may be imposed by this Hon'ble Court.

3. In the present application the applicant prays to appoint her as guardian of the minors and therefore, present application was decided under the provision of Section 29 of the Guardian and Wards Act, 1890.
4. On filing of present application, a public notice was also published in the daily newspaper "Saanj Samachar" on date 15/05/2026, which is produced on record vide Exhibit-18 inviting written objections, if any, from the interested persons against the relief prayed by the applicant. However, no objections were received within stipulated period of notice.
5. The applicant Madhuriben Shaileshbhai Ambaliya has filed her affidavit of evidence at Ex.6 and deposed on oath the facts mentioned in the application.
6. The applicant has produced following documents in support of her case, which are as under.

Sr. No.	Documents	Exh.
1	Affidavit of examination in chief of Mukeshbhai Damjibhai Ambaliya	8
2	Death certificate of Shaileshbhai Damjibhai Ambaliya	9
3	Pedigree of the deceased	10
4	Copy of Registered sale deed no. 1706 dt. 20.05.2017	11
5	Village form No. 8-A, 7/12, and 6 with mutation entry no. 8575	12
6	True copy of Jantri Report	13
7	Birth certificate of Minor Shreya Shaileshbhai Ambaliya dt. 14.05.2012	14

8	Birth certificate of Minor Nijil Shaileshbhai Ambaliya dt. 06.10.2016	15
9	Copy of Aadhar card of the applicant	16
10	Copy of Ration card of the applicant	17
11	Public Notice in Newspaper "Saan Samachar"	18
12	Receipt of Ketan New Agency	19

7. After submission of the oral and documentary evidences, the applicant has submitted closing pursis vide Ex. 20.
8. I have heard the Learned Advocate for the applicant. Read the application and supported affidavit and the documentary evidences. I have gone through the oral as well as the documentary evidence.
9. From the above referred submissions of the Learned 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. What order?
10. My findings on the aforesaid points are as under for the following reasons.
 1. In the Affirmative.
 2. As per final order.

REASONS

Point no.1 & 2

11. Before deciding the present application, I would like to quote here the settled provision of law that when the person

other than Collectorate 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 or she 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 or her 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 cease to be a minor.

12.It has been contended by the Learned Advocate for the applicant that applicant is mother of minor children namely "Shreya Shaileshbhai Ambaliya", born on 14/05/2012, and "Nijil Shaileshbhai Ambaliya", born on 06.10.2016 as evident from Exh.14 and 15. Therefore, on the date of the present application, both are minors. Further submitted that the subjected residential property bearing revenue survey no. 531 paiki 1 is mutated in the joint names of the applicants Mukesh Damjibhai Ambaliya, Madhuriben and Minors Shreya and Nijil Shaileshbhai Ambaliya as evident from the exh. 12 with mutation entry no.8575 dt. 04.10.2023 of village form no. 8-A, 7/12 and 6. Thereby, the minors are each having undivided shares of 1/3 portion in the subjected property from 50% share of the deceased husband.

13.It is also submitted by the applicant that, she is the mother and natural guardian of the minors and is looking after welfare, education and upbringing of minor. However, applicant has no sufficient source of income and therefore,

she wants to sell the undivided shares of the said agricultural property in favor of the third parties. It is further contended that minors have right and undivided shares in the said property, detailed description of which has been given in para-4 of application. She has submitted that necessary documentary evidence in respect of right and shares of minors in the aforesaid property is produced and it is required to permit the applicant to sell undivided shares of the minors.

14. In the present case the subjected property is situated at Jetpur Taluka & District Rajkot, wherein the applicant along with minor is residing. Therefore, in view of the provision of Section 9(2) of the Guardian and Wards Act, 1890, present application in respect to the guardianship of the property of minor, is filed before the District Court having jurisdiction in the place where the minor ordinarily resides. Since, the minor is residing in the local territorial jurisdiction of this Court, this Court finds jurisdiction to decide the application as per provision of Section 9(2) of the Guardian and Wards Act, 1890.

15. The applicant has also submitted her affidavit vide Ex. 6 inter alia supported the facts stated in the application. Further submitted that after death of her husband Shaileshbhai Damjibhai Ambaliya, she is looking after welfare and education of minors "Shreya and Nijil" and as such, she has to manage and administer the interest and shares of the property of minors as well as to meet with the expenditure for education and welfare of minors, hence,

being natural guardian she will be permitted to sell undivided shares of minors in the subjected property.

16. Keeping in mind the aforesaid background and aforesaid documents, it becomes clear that marriage of deceased Shaileshbhai Damjibhai Ambaliya and the applicant was solemnized as per Hindu rites and rituals and during their wedlock, two children were born out namely Shreya and Nijil from the said wedlock. Subsequently, Shaileshbhai Damjibhai Ambaliya died on 13-04-2023 as evident from Ex.9. Therefore, applicant being mother of the minors looks after welfare, education and upbringing of the minor. Further as per Ex.12, minors having 1/3 undivided right in the said property. Further, as per the submission of the Learned Advocate for the applicant, the applicant is the mother of the minors and after death of deceased husband Shaileshbhai, applicant has been taking care for the maintenance and education of their minor children. The applicant has filed this application to grant permission to sell undivided shares of the minors for and on behalf of minors and to manage undivided shares of the property came to the shares of minors.

17. The Applicant has produced affidavit of Mukeshbhai Damjibhai Ambaliya vide Exh.7 and said witness stated on oath that subjected agricultural property for which the applicant has prayed for permission to sell undivided shares from property on behalf of the minor children, the said property was purchased by him and his brother i.e. the deceased Shaileshbhai jointly vide registered sale deed no.

1706 on 20.05.2017. After the death of Shaileshbhai, his legal heirs Madhuriben and two minor children have been entered vide mutation entry no.8575 having 50% shares and right of the deceased and with the 1/3rd undivided shares of each. It is submitted that after the death of Shaileshbhai his wife i.e the natural guardian of the two minor children is looking after welfare, education and bringing up of the two children and she wants to sell the undivided shares of the minors for their upbringing and welfare. Hence, he has no any objection if the undivided shares of the minors is sold and the applicant be appointed as natural guardian of the two minor children.

18.It is worth to note that even after service of the public notice, none has challenged the application. Therefore, entire evidence on record produced by the applicant remained unchallenged.

19.As per Section 6 of the Hindu Minority and Guardianship Act, 1956, in case of a boy or an unmarried daughter – the father and after him mother is the natural guardian in respect of the minor's person as well as minor's property. In the present case, father of the minor children has been died and therefore, the present applicant, being the mother of the minor, is seeking permission to allow sell the undivided share of the minor in the said property for their welfare and education. While going through the provision of Section 8 of The Hindu Minority and Guardianship Act, 1956,

(1) The natural guardian of a Hindu minor has power, subject to the provisions of this section, to do all acts

which are necessary or reasonable and proper for the benefit of the minor or for the realization, protection or benefit of the minor's estate; but the guardian can in no case bind the minor by a personal covenant.

(2) 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.

20. In the present case, the father of the minors is expired and therefore, the mother will be the natural guardian in view of the Hindu Minority and Guardianship Act. The applicant being mother of the minors, can do all acts which are necessary or reasonable and proper for the benefit of the minors but as per the provision of the Section 8 of the Hindu Minority and Guardianship Act, 1956 read with Section 29 of the Guardian and Wards Act, 1890, for mortgage, charge, transfer by sale, gift, exchange or otherwise or for the lease any part of the property, previous permission of the competent Court is required. In the present case, the applicant seeks permission from the Court to administer the 1/3 undivided shares of the each minor and also seeks permission to execute every document for sale in favor of the third parties. It is also stated that property is required to be sold for the welfare and benefit of the minor children. Since, no one has taken any objection

against the present application as well as status of the applicant, this Court finds fit case to grant permission to the applicant.

21.Hence, considering the facts and circumstances and welfare of minor as well as material placed for consideration, I answer Point No. (1) in Affirmative and for Point No. (2), I pass following final order in the interest of justice.

: FINAL ORDER:

1.Civil Misc. Application No. 09 of 2026 stands Allowed.

2.The applicant **Madhuriben Shaileshbhai Ambaliya**, being natural guardian/mother permitted to administer/manage as well as sell or execute any agreement for the 1/3rd Undivided Shares of minors "Shreya and Nijil Shaileshbhai Ambaliya" in the immovable property being agricultural land bearing survey no. 531 paiki 1, hec. 0-80-94 sq.mtrs (Acre 2.00 Gunthas) situated at Jetalsar Gaam Jetpur taluka, district Rajkot. (more particularly stated in para. 4 of the application)

3. The applicant is directed to execute sale agreement or sale deed in respect to the subjected property at the prevailing market rate.

4. Any amount received towards consideration or any amount in form of outcome of the property in respect to the 1/3rd shares of the minors, which the applicant will receive by such sale or agreement, will be invested in the fixed

deposit in any Nationalized Bank of the choice of the applicant, in the joint name of the applicant and minors till the minors attain the age of majority and the applicant shall not take any loan, advance etc. whatsoever in any manner or any amount from the concerned bank without prior permission of this Court, but the applicant shall be entitled to withdraw the periodical interest accrued from the said fixed deposit amount and the applicant is strictly directed to use the said amount for the welfare of the minor.

5. Further the applicant is directed to file her undertaking or affidavit for the compliance of conditions.

6. No order as to costs.

Signed and Pronounced in open court today on this 18th day of July, 2026

DATE:18/07/2026
PLACE: JETPUR

[Rajesh Sureshchandra Purani]
7th Additional District Judge, Jetpur
District - Rajkot.
JUDGE CODE :- GJ00727

M.J. Vyas