

KADG210000482026



Presented on : 24-01-2026
Registered on : 24-01-2026
Decided on : 15-04-2026
Duration : 0 years, 2 months, 22 days

**IN THE COURT OF THE SENIOR CIVIL JUDGE & J.M.F.C
AT: CHANNAGIRI**

Present:

**Soubhagya.B.Bhusher
B.A.,LL.M.,**

**Senior Civil Judge & J.M.F.C.,
Channagiri**

DATED; THIS THE 15th DAY OF APRIL 2026

G & W.C NO.03/2026

PETITIONERS

1. Shruthi.R W/o Late Shivakumar G.E,
Age: 30 years, Occ: Household.
2. Dhavana G.S. D/o Late Shivakumar G.E.
Age: 12 years, Occ: Student,

The petitioner No.2 is minor R/by her natural guardian mother the petitioner No.1.

Both are R/o: Door No.602/83, 2nd Cross,
Anjaneya Badavane, Davanagere.

(By Sri.D.R.Jagadeesh.,Adv.,)

V/s

RESPONDENTS -NIL-

(Soubhagya.B.Bhusher)
Senior Civil Judge and J.M.F.C.,
Channagiri

JUDGMENT

The present petition is filed by the petitioners under section 10 of Wards and Guardians Act.

2. Brief case of the petitioners' is that;

The marriage of the petitioner No.1 and Shivakumar G.E. was performed on 09.02.2012. After the marriage the petitioner No.1 started residing with her husband at Kagatur village, Tq:Channagiri. Due to their wedlock the petitioner No.2 was born on 09.04.2013. The petitioner No.2 is a minor daughter of the petitioner No.1 and deceased Shivakumar. The petitioner No.2 is under care and custody of the petitioner No.1 and she looking after the welfare of the petitioner No.2 and there is no conflict of interest between the petitioner No.1 and 2. The husband of the petitioner No.1 was suffering from illness and he was attacked with stroke in the brain and also blood clot in the brain and he was taken treatment at Manipal Kasturba Hospital and Yenapoya Hospital, Managalore. The petitioner No.1 by taking loan spent nearly five lakhs to Yenapoya Hospital and nearly spent three lakhs at Kasturba Hospital, Manipal. The petitioner No.1 for treatment of

her husband taken hand loans from Prasanna Kumar, Shivalingaswamy and Dhananajaya. But unfortunately he was passed away on 31.12.2021. The petitioners are the legal heirs and legal representatives of the deceased Shivakumar G.E. and they are meddling with the assets left behind by the deceased. After his death the petitioner No.1 shifted to Davanagere now the petitioners are residing in a rented house at Davanagere and she has to pay monthly rent of Rs.5,000/- and she has to maintain the family. The petitioner No.1 started working in the photo studio at Davanagere. Since last one year on account of her illness she is unable to work as earlier. The petitioner No.1 is suffering from Asthama and she is having respirator problem. The petitioner No.1 is also having low blood pressure. As such, she has intended to alienate the schedule properties.

3. Further stated that the Shatamma, Suvarnamma and G.E. Vijaykumar filed the suit against the husband of the petitioner No.1 on the file of the Prl. Civil Judge and JMFC., Channagiri in OS No.87/2019. In the said suit compromise petition was filed by the parties. As per the compromise the husband of the petitioner No.1 was allotted 1 acre 8.08 guntas of land in Re.Sy.No.166/1P-P4 of Hirevuda village, Santhebennuru 2nd Hobli, Tq:Channagiri, Western portion measuring 20 guntas out of Re.Sy.No.30/P measuring 1 acre 2.08 guntas and 17.04 guntas in Re.Sy.No.30/2P-P3 of Kagatur village, 14 guntas of land i.e., Northern portion in total land measuring 27 guntas in Re.Sy.No.120/3P6 of Kagatur village and

1 gunta of land i.e., Northern portion in Re.Sy.No.114 out of total measuring 2 guntas of Kagatur village, Northern vacant site in the total 5 guntas of land which is situated within the limits of Kagaturu Gram Panchayath. The Prl. Civil Judge and JMFC., Channagiri drawn the final decree in respect of the properties allotted to the share of husband of the petitioner No.1. As per the court order the khata of the properties was made out in his name. After his death the petitioners succeeded the properties. The khata of the schedule properties and other properties are made out in the name of the petitioners. Further stated that as the petitioners shifted to Davanagere, the petitioner No.1 is unable to cultivate the lands and as such the petition schedule properties are not fetching any income. Even other properties which are in the name of the petitioners are not fetching any income. As stated above, the petitioner No.1 had availed hand loan from several persons for treatment of her husband the same is to be cleared by the petitioner No.1. The petitioner No.2 is studying in 7th Standard in Lalitha International School which is situated in Lokikere Road, Davanagere. The petitioner No.1 has to pay yearly fee of Rs.50,000/- to the school of the petitioner No.2. The petitioner No.1 has to meet the educational expenses of the petitioner No.2 to meet the day to day family needs and for the purpose of treatment she is in need of funds.

4. Further stated that the petitioner No.1, she is unable to work on account of her illness and it is very difficult for her to lead

the life and to meet the educational expenses of the petitioner No.2 and she is unable to take good treatment. The petitioner No.1 has to take care of herself and she has also intended to give good education to the petitioner No.2 and for that she has to spend good amount for the educational expenses, for getting good treatment for herself and also to clear the hand loans availed by her for the treatment of her husband. Further stated that the petitioner No.1 and 2 are having $\frac{1}{2}$ share each and right over the petition schedule properties. G.S. Siddesh S/o G.S.Chandrappa of Kagatur village is intending to purchase the schedule properties. The intending purchaser is requesting the petitioner No.1 to obtain the permission of the court to sell the petition schedule properties on behalf of the minor petitioner No.2. Since the minor the petitioner No.2 has got undivided right, title, interest and share in the petition schedule properties, it is absolutely essential and necessary to obtain the permission from the court to sell the petition schedule properties on behalf of the minor petitioner No.2. Hence, she prays for permission of the court to alienate schedule properties.

5. This court received entire records from the Hon'ble Prl. District and Sessions Court, Davanagere. After appearance of the petitioners, this court issued paper publication in Prajavani Kannada daily newspaper by inviting the objections from the public if any and despite taking paper publication, no public appeared and opposed the petition.

6. Upon perusing the material placed on record, the following points that arise for consideration;

1. Whether the petitioners are entitled for the reliefs as prayed?

2. What order?

7. In support of their case, petitioner No.1 examined herself as PW.1 and 24 documents were marked at Ex.P.1 to 24 and closed their side.

8. Heard the argument on the petitioners and perused the records. My answers to the above points are;

Point No.1: In the Affirmative.

Point No.2: As per the final order, for the following;

REASONS

9.POINT NO.1: In the affidavit filed in lieu of her examination in chief re-producing the petition averments PW.1 stated that she married one Shivakumar G.E and out of that wedlock the petitioner No.2 is born to her and about 4 years back her said husband died leaving behind herself and the petitioner No.2 as his only legal heirs and except them no other person has any interest in the schedule properties. She stated that the said lands are dry lands and on the death of her husband she alone is shouldering the responsibility of maintaining her minor daughter and to take care of their health and education expenses and also to clear the hand

loans availed by her for the treatment of her husband. Therefore, she is required to alienate the suit schedule properties.

10. To prove their case, she had marked 24 documents at Ex.P.1 to 24. Ex.P.1 is the certified copy of decree in OS No.87/2019. Ex.P.2 to 5 are the mutation register extracts. Ex.P.6 is the death certificate of G.E.Shivakumar. Ex.P.7 is the G-Tree. Ex.P.8 to 10 are the Aadhar cards of the petitioners and Shivakumar. Ex.P.11 and 12 are the RTC's in respect of the schedule properties, these properties was mutated in their names jointly and now stands in their names. Ex.P.13 is the OPD slip. Ex.P.14 is the Lab receipt. Ex.P.15 is the prescriptions. Ex.P.16 is the ECG report. Ex.P.17 is the certificate. Ex.P.18 is the discharge summary. Ex.P.19 is the cash bill. Ex.P.20 to 22 are the cash receipts. Ex.P.23 is the school certificate of the petitioner No.2. Ex.P.24 is the paper publication.

11. It is difficult to imagine that a natural mother would act against the interest of her own minor children. RTC's of the petition lands shows that it is a read soil dry lands having no source of water, so one cannot distrust a natural mother to get irrigate some part of the land by alienating other part of it. She stated that the said lands are dry lands the there is no body cultivate on behalf of the petitioners. She too deposed that alienation of the dry lands and its sale proceeds would help PW.1 in providing better education to the minor petitioner No.2. Now a days because of the

scanty rain the agriculture has become a gambling. A farmer has to invest his hard earned money as well as labour and gamble with the nature to reap good income. Many a time he may not be able to realize even what he invests. Such kind of gambling cannot be expected by a widow having a responsibility of maintaining her minor daughter. She cannot be equated to a male agricultural labourer. Moreover one cannot suspect the intention of a natural mother to alienate the land and to utilize the same for the well being of her minor daughter. The school records show that the petitioner No.2 date of birth shown as 09.04.2013 and now she is studying in 7th standard. When the cost of living and cost of education are sky rocketing, the genuine prayer of PW.1 cannot be suspected. Therefore, I am inclined to permit her to alienate the meager interest of her minor and utilize the sale proceeds for her well being. It is the paramount interest of the minor that has to be taken note of and no other thing. So again holding that it is in the interest of the said minor as lands is not fetching any income to them. With these observations, I answered point No.1 in the Affirmative.

12.POINT NO.2: In view of foregoing reasons, I proceed to pass the following:

ORDER

The petition filed by the petitioners under section 10 of Wards and Guardianship Act is hereby allowed.

The petitioner No.1 is permitted to alienate the interest of the minor petitioner No.2 in Sy.No.166/7 (old Re.Sy.No.166/P-P4) measuring 1 acre 8.8 guntas situated at Hirevuda Village, Tq:Channagiri and Re.Sy.No.30/11 old Re.Sy.No.30/1P ad 30/2P-P3) measuring 17.04 guntas situated at Kagaturu village, Tq:Channagiri and utilize the sale proceeds for her well being.

Further out of the sale proceeds of the said lands the petitioner No.1 shall deposit the share of the minor interest in any nationalized bank till the petitioner No.2 attain the age of majority to a liberty to her to receive the periodical interest. Vendee is also equally responsible to see that said condition is full filled before he takes the sale deeds.

(Dictated to the stenographer directly on computer, typed by her, corrected by me and then judgment pronounced in the open court on 15th day of April 2026)

**(Soubhagya.B.Bhusher)
Senior Civil Judge & J.M.F.C
Channagiri**

ANNEXURE**LIST OF WITNESSES EXAMINED BY THE PETITIONERS:**

PW.1 : Shruthi.

LIST OF DOCUMENTS MARKED BY THE PETITIONERS:

- Ex.P.1 : Certified copy of decree.
Ex.P.2 to 5 : Mutation register extracts.
Ex.P.6 : Death certificate of G.E.Shivakumar
Ex.P.7 : G-Tree.
Ex.P.8 to 10 : Adhar Cards of the petitioners and Shivakumar.
Ex.P.11 & 12 : RTC's.
Ex.P.13 : OPD slip.
Ex.P.14 : Lab receipt.
Ex.P.15 : Prescriptions.
Ex.P.16 : ECG report.
Ex.P.17 : Certificate.
Ex.P.18 : Discharge summary.
Ex.P.19 : Cash bill.
Ex.P.20 to 22 : Cash receipts.
Ex.P.23 : School certificate of the petitioner No.2.
Ex.P.24 : Paper publication.

LIST OF WITNESSES EXAMINED BY THE RESPONDENTS:

NIL

LIST OF DOCUMENTS MARKED BY THE RESPONDENTS:

NIL

Senior Civil Judge & J.M.F.C.,
Channagiri

