



IN THE COURT OF THE I ADDITIONAL SENIOR CIVIL
JUDGE & J.M.F.C., HUBBALLI

Present:
SMT. SARVAMANGALA K.M.,
B.A. LL.B.,
I Addl. Senior Civil Judge & J.M.F.C., Hubballi.

G & Wc. No.84/2026

Dated this the 02nd day of July, 2026

- Petitioner/s :*
1. Prema D/o Lakshman Harijan, Age:14 years, Occ:Student.
 2. Pratham S/o Lakshman Harijan, Age:12 years, Occ:Student.
 3. Preetham S/o Lakshman Harijan, Age:12 years, Occ:Student.
(Since petitioner No.1 to 3 are minors represented by their natural guardian mother i.e., petitioner No.1 Gayatri W/o Lakshman Harijan, Age:36 years, Occ:Household work, R/o.Lakshminagar, Mallapur PG, Ghataprabha, Tq:Gokak, Dist:Belgavi.)
 4. Gayatri W/o Lakshman Harijan, Age:36 years, Occ:Household work,



*R/o.Lakshminagar,
Mallapur PG,
Ghataprabha, Tq:Gokak,
Dist:Belgavi.*

(By Sri. V.P. Shiraguppi, Advocate)

Vs.

Respondent/s : NIL

ORDER

This Petition is filed by the Petitioners under Section 8 and 9 of Guardian and Wards Act and Sec.10 and 29 of Guardian Wards Act, 1890, praying to appoint petitioner No.4 as a guardian of minor petitioner No.1 to 3 and also permit them to alienate the suit property including share of minor petitioner No.1 to 3.

2. In brief, the case of the Petitioners is as under:

The petitioner No.1 to 3 are the children of petitioner No.4 and they are in under care and custody of the petitioner No.4. The petition schedule property bearing E-Swatt No.151300200700101183, which is standing in the joint names of Anasuya W/o Udachappa Harijan, Ravi S/o Udachappa Harijan and petitioners. The said property was inherited by



the petitioners. The petitioner having 1/3rd share in the said property.

The petitioner No.4 being the natural guardian/ mother of the petitioner No.1 to 3, has been looking after their maintenance, education and welfare of their properties; as such the interest of the minor is not adverse to those of the petitioner No.4. The appointment is necessary to enable the guardian to sell the minor's interest / share in said property. The petitioner No.1 to 3 are also having the share / interest in the said property. If the petitioner No.4 is appointed as guardian to the said minors for the benefit of her minor children, she can take appropriate steps and same will be in best interest of minors and the sale proceeds with respect to the share of the petitioner No.1 to 3 shall be utilized for the benefit of the minors, for their education and well being. Also the sale is for the family and other domestic necessities of the family of the petitioners. Hence, this petition and prayed to allow the petition.

3. The petition notice has been issued by way of paper publication in Daily Kannada Newspaper 'Samyuktha Karnataka' and after



publishing the petition notice, no one appeared before the Court to contest the petition on the date of appearance of the respondent. Hence, the petition filed by the petitioners remained uncontested.

4. In support of the petition, the petitioner No.4 filed affidavit in lieu of examination-in-chief and got marked 09 documents as Ex.P.1 to P.09 and P.9(a) and closed her side of evidence.

5. Heard arguments.

*6. **The following points arise for my consideration:***

1. Whether the petition filed by the petitioners is deserves to be allowed ?

2. What Order ?

7. My answers to the above points are as follows :

Point No.1 : In the Affirmative

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

REASONS

*8. **POINT No.1:** It is the specific case of the petitioner that, the petitioner No.1 to 3 are the*



children of petitioner No.4 and they are in under care and custody of the petitioner No.4. The petition schedule property bearing E-Swatt No.151300200700101183, which is standing in the joint names of Anasuya W/o Udachappa Harijan, Ravi S/o Udachappa Harijan and petitioners. The said property was inherited by the petitioners. The petitioner having 1/3rd share in the said property.

The petitioner No.4 being the natural guardian/ mother of the petitioner No.1 to 3, has been looking after their maintenance, education and welfare of their properties; as such the interest of the minor is not adverse to those of the petitioner No.4. The appointment is necessary to enable the guardian to sell the minor's interest / share in said property. The petitioner No.1 to 3 are also having the share / interest in the said property. If the petitioner No.4 is appointed as guardian to the said minors for the benefit of her minor children, she can take appropriate steps and same will be in best interest of minors and the sale proceeds with respect to the share of the petitioner No.1 to 3 shall be utilized for the benefit of the minors, for their education and well being. Also the sale is for the family and other



domestic necessities of the family of the petitioners.

9. In order to substantiate the contention of the petition, the petitioner No.4 got herself examined as PW.1 and she has produced documents, which are marked as Ex.P.1 to P.9 and P.9(a). The Ex.P.1 is the E-Swatt bearing No.151300200700101183, which is standing in the joint names of petitioners and others. Ex.P.2 to P.4 are the School Certificates, which discloses that the petitioner No.1 to 3 are born on 28.07.2011 and 15.12.2012 i.e., they are still minors. Ex.P.5 to P.8 are the Aadhaar Cards of the petitioners. Ex.P.9 and P.9(a) are the paper publication and its receipt.

10. This Court has gone through all the documents produced by the petitioners and her examination in chief, it is noticed to the Court that, admittedly the petition schedule property bearing E-Swatt No.151300200700101183, which is standing in the joint names of petitioners and others. The petitioner No.4 is the natural guardian/mother of the minor petitioner No.1 to 3 because of financial difficulties it has become difficult to maintain and run the family



that too especially with growing children and their educational expenses and other basic requirements of the family. The retention of the property has become fruitless and impractical. Under these circumstances, the situation has led the petitioner to dispose off the said property for the welfare of the minor children and family members and for the family legal necessities as the petitioner has to give better education and bright future to the children and perform other duties towards the grown-up children. The day to day needs of the children and to give their a healthy life with hygiene and respectable living, the requirement of financial arrangement has put the petitioner to more pressure for the betterment of the minor children and family members, under the process of alienating the property, to avoid any further and future disparities and technical default in compliance of the need and requirement under the law in respect of the interest of the minor children and any technicalities to be raised at the later stage the petitioner is necessitated to file this petition and on the other hand, there is no alternate for the petitioner other than to sell and dispose of the said property. Therefore, the petitioner is



constrained to file this petition seeking the permission of this Court for the sale of minor's undivided share in property by appointing them as guardian of the person and the property of her minor children. That is the reason why, the petitioner, next friend of the minor petitioner No.1 to 3 has decided to dispose off the property and share the sale consideration. At this stage the Court has to verify the above averments made by the petitioners is bonafide one or not. Admittedly property cannot be enjoyed conveniently, so next course open to the sharers to dispose off the property and divide the same. Under such circumstances, one cannot find malafidness on part of next friend of minors.

11. Apart from the above, the next friend of the minors have also pleaded that, in order to meet educational expenses and day today expenses of the minors, it is necessary to sell the property. The said ground urged by the guardian of the petitioner cannot be said that illegal and on the other hand alienation going to be made by the next friend of the minors is for legal necessity. Further the next friend of the minors is utilizing the share of the minors and thereby



interest of the minors is also protected. Hence, it is fit case to accord permission.

*12. Admittedly the next friend of the minors is having share in the petition mentioned property, therefore as per the reported ruling of our Hon'ble High Court reported in **2006 (2) KLJ 67 in the matter of A.Chidananda (deceased) by L.Rs) & another V/s Smt.Lalitha.V.Naik**, wherein the Hon'ble Court pleased to hold that:*

“Nonetheless the natural guardian remains a guardian of the minors in other sense also. It is also emphasized that natural guardian who has a share in the property along with the minors undivided interest in the property is legally competent to alienate the property as a whole”.

The said ruling is aptly applicable to the case on hand, because as admitted by the next friend of minors is also share in the petition schedule property, petitioners as well as their next friend are having share. Under the above facts and circumstances, there is no hurdle in law to grant permission as sought by the guardian of the minor petitioner No.1 to 3 if



*imposing condition of fixed deposit of the minors share. Hence, in view of the discussion made in supra I answer **point No.1 in the affirmative.***

13. **Point No.2:** *For the findings given on point No.1, I proceed to pass the following:*

ORDER

The Petition filed by the petitioners under Section 8 and 9 of Guardian and Wards Act and Sec.10 and 29 of Guardian and Wards Act, 1890 is hereby allowed.

Gayatri W/o Lakshman Harijan is hereby appointed as guardian to the minor petitioner No.1 to 3 to look after their welfare and to sell the property, subject to condition that share amount of the minors is to be kept as F.D. in their names till they attains majority and directed to produce the F.D. bond before the Court and utilized the interest amount thereon to the interest of the minors, otherwise said sale is not binding on the minor petitioner No.1 to 3.



*Issue guardianship certificate as
per order.*

*(Dictated to the Stenographer directly on computer, script
corrected and then pronounced by me in the Open Court on
this the **02nd day of July, 2026**)*

*(Smt. Sarvamangala K.M.)
I Addl. Senior Civil Judge & J.M.F.C.,
Hubballi.*

ANNEXURES

1. List of witnesses examined for the Petitioner/s:

P.W.1 : Gayatri W/o Lakshman Harijan

2. List of documents exhibited for the Petitioner/s:

Ex.P.1 : E-Swatt.

Ex.P.2 to P.4 : School Certificates.

Ex.P.5 to P.8 : Aadhaar Cards.

*Ex.P.9 : 'Samyuktha Karnataka'
Kannada newspaper.*

Ex.P.9(a) : Receipt.

3. List of witnesses examined for the respondent/s:

NIL

4. List of documents exhibited for the Respondent/s:

NIL

*(Smt. Sarvamangala K.M.)
I Addl. Senior Civil Judge & J.M.F.C.,
Hubballi.*