

KADW410000432026



Presented on : 05-01-2026
Registered on : 13-01-2026
Decided on : 06-04-2026
Duration : 0 years, 3 months, 1 days

IN THE COURT OF THE SENIOR CIVIL JUDGE & JMFC
KUNDGOL

Date of order: The 06th day of April 2026

Present : **Abdul Khadar, B.A. LL.B.,**
Senior Civil Judge & JMFC.
Kundgol.

G & WC. No.2/2026

Petitioners :

1. Smt. Kamalakshi W/o Ramesh Bidnal
Age: 34 years, Occ: Agriculture/household
R/o : Neharunagar, Kundgol,
Kundgol Taluk, Dharwad District.
2. Kumari Kanchana D/o Ramesh Bidnal
Age: 13 years, Occ: Student
R/o : Neharunagar, Kundgol,
Kundgol Taluk, Dharwad District.

(Since Petitioner No. 2 is minor
represented by her mother petitioner No.1)

(By Sri. SAN., Advocate.)

Vs.

Respondent: Nil.

ORDER

This petition is filed U/Sec. 8 and 10 of Guardian and Wards Act 1890 seeking permission of the Court to alienate the interest of minors in respect of suit schedule properties.

2. The averment of petition in brief are as follows:

The Petitioner No. 2 is minor. The petitioner No.1 is the natural mother of minor petitioner No.2. Therefore, the care, maintenance, and education of Petitioner No.2 has been entirely undertaken by Petitioner No.1. All expenses relating to Petitioner No.2 have been borne by Petitioner No.1. Petitioner No.2 is under the custody and guardianship of Petitioner No.1, and all responsibilities concerning her have been managed by Petitioner No.1 like providing food, clothing, shelter, education, upbringing, and securing the future of Petitioner No.2, as well as making her a

responsible citizen of society, lies solely with Petitioner No.1. An agricultural land bearing Survey/Block No. 432/1 measuring 2 acre 11 guntas situated at Pura village, Kundgol taluka. The said land is the ancestral property of Ramesh Beedanal, who is the husband of Petitioner No.1 and father of Petitioner No.2. He passed away on 20.08.2019. After his demise, the said property has devolved upon the petitioners by way of succession. The said property is in joint ownership and possession along with others, namely Shivanagouda S/o Ganganagouda Beedanal and Mahadevi W/o Kudari. Petitioner No.1 is the natural mother of Petitioner No.2. The petitioners have joint share rights in the Schedule "A" property. Due to the minority of Petitioner No.2, Petitioner No.1 is solely responsible for her maintenance, upbringing, education, livelihood, clothing, and other necessities. Due to financial difficulties in the family, Petitioner No.1 is facing hardship in fulfilling all such responsibilities. Therefore, the petitioner No.1 intend to sell the Schedule "A" property, which is ancestral property, in order to meet the needs of Petitioner No.2. Hence, Petitioner No.1 seeks to be appointed as

the guardian of the minor Petitioner No.2 and to obtain permission from this Court to sell the minor's share along with her own share. Being the guardian of the minor, Petitioner No.1 undertakes that the sale proceeds from the said property shall be utilized for the maintenance, upbringing, education, livelihood, clothing, and overall welfare and progress of Petitioner No.2. This application is not adverse to the rights and interests of the minor Petitioner No.2 and does not affect her interests negatively. Petitioner No.1, being the natural mother of Petitioner No.2, is a fit and proper person to be appointed as guardian of the minor. With these averments they prays to allow the petition.

3. After registration of petition, the Court has directed the petitioner No.1 to get publish paper publication to the general public. Accordingly, the petitioners got published paper publication to the general public on 2.8.2025. Even after publication, none appeared and opposed the petition.

4. Now the following points are arise for my consideration;

- 1) Whether alienation of the interest of the minor petitioner No. 2 is necessary?
- 2) Whether the petitioners are entitled for the relief as sought for ?
- 3) What order?

5. In order to prove their case, the petitioner No.1 got examined herself as PW.1 and marked 6 documents as Ex.P1 to P6.

6. Heard the arguments and perused records.

7. My answer to the above points are as follows;

Point No.1 and 2 : In the Affirmative

Point No.3 : As per the final order, for the following;

: REASONS :

8. Point No.1 and 2 : Since these points are inter- related to each other they taken up together for common discussion in order to avoid repetition of facts and findings.

9. PW.1 in her affidavit filed in lieu of examination in chief has reiterated the petition averments and produced Ex.P1 to P6

documents. Ex.P1 is the R.Sy.No. 432/1 measuring 2 acre 11 guntas situated at Pura village, Kundgol Taluk. Ex.P2 is the death certificate of Ramesh. Ex.P3 and 4 are the Adhar Cards of petitioners. Ex.P.5 is the Birth certificate of minor petitioner No.2. Ex.P6 paper publication, Ex.P6(a) portion of paper publication. Though the petitioners have got published the paper publication to general public, none appeared as respondent and opposed either the petition or evidence of PW.1.

10. From evidence of PW.1 coupled with Ex.P-1 to 6 it appears that, the property is the ancestral property belonging to petitioner 1 and 2. It also appears that, petitioner No.1 is facing difficulty in maintaining her family as well as providing good education to her daughter. petitioner No. 1 being a mother is all alone facing financial crisis and the burden of maintaining family, education, providing basic necessities is on the shoulder of petitioner No.1 and as such selling of above said property is inevitable to fulfill the needs of minor petitioners No.2. It is pertinent to note that, petitioner No.1 is none other than the

mother of petitioner No.2 who is taking care of her minor daughter and has no adverse interest against her minor daughter petitioner No.2.

11. Section 8 of Hindu Minority and Guardianship Act, 1956 inter-alia provides that the natural guardian of a Hindu minor has power, subject to the provisions of the 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. Furthermore, the natural guardian shall not, without the previous permission of the court, mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the immovable properties of the minor or lease any part of such properties 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. Any disposal of immovable properties by a natural guardian, in contravention of sub-section (1) or sub-section (2), is

voidable at the instance of the minor or any person claiming on behalf of the minor.

12. In the present case, the petitioner No.1 has sought for alienation of minor interest in the properties to meet the educational expenses of her daughter and for maintenance of the family. Under such circumstances it is just and necessary to permit the petitioner No.1 to sell the above said property for bonafide needs and necessities. Admittedly, the petition is uncontested and uncontroverted. Though the petitioners have got published the paper publication to general public, none appeared as respondent and opposed either the petition or evidence of PW.1. Therefore, having regard to the facts and circumstances of the case, the Court is of the opinion that, it is just and necessary to permit the petitioner No.1 to alienate the interest of minor petitioner No.2 in above said property i.e., R.Sy.No. 432/1 total measuring measuring 02 acre 11 guntas, situated at Pura village, Kundgol Taluk, to meet educational expenses of petitioner No.2 and for the

maintenance of the family of petitioner No.1. Accordingly, I answer point No.1 and 2 in the **affirmative**.

13. Point No.3: In view of the above reasons and findings on point 1 and 2, I pass the following;

ORDER

The petition filed by the petitioners U/Sec. 10 Guardian and Wards Act 1890 is hereby allowed.

The petitioner No.1 is permitted to alienate the interest of minor petitioners No.2 in property i.e. R.Sy.No.432/1 measuring 2 acre 11 guntas situated at Pura village, Kundgol Taluk , Dharwad District.

The petitioner No. 1 is hereby directed to keep sum of Rs 2,00,000/- out of sale proceeds in the name of petitioner No.2 in Fixed Deposit in any Scheduled or Nationalized Bank of choice of her choice till petitioner No.2 attains the age of majority.

[Dictated to the stenographer, transcribed and typed by him, corrected and then pronounced by me in the open court on the 6th day of April 2026.]

(Abdul Khadar)
Senior Civil Judge & JMFC.,
Kundgol.

ANNEXURE

Witnesses examined on behalf of Petitioners.

PW.1 : Smt. Kamalakshi Bidnal

Documents exhibited on behalf of petitioners.

Ex.P1 : R.Sy.No. 432/1 of Pura village

Ex.P2 : Death certificate.

Ex.P3 & 4 : Adhar cards of petitioners.

Ex.P5 : Birth certificate of Petitioner No.2.

Ex.P6 : Paper publication.

Ex.P6(a) : Portion of paper publication.

Witnesses examined on behalf of Respondent.

- Nil -

Documents exhibited on behalf of Respondent.

- Nil -

Senior Civil Judge & JMFC.
Kundgol.