

KAGD010000542026



IN THE COURT OF PRL. DISTRICT AND SESSIONS JUDGE, GADAG.

Dated this the 11th day of August, 2026

PRESENT: SMT. NAGAVENI, B.A., LL.B.,
PRL. DISTRICT AND SESSIONS JUDGE,
GADAG.

G & WC. No.04/2026

PETITIONER/S:

1. Satvik S/o. Mahadevappa Byahatti,
Age: 07 years, Occ: Student,
(Aadhaar No.7122 6914 0419)
R/o: Ingalahalli, Tq: Hubballi, Dist: Dharwad.
2. Atharva S/o. Mahadevappa Byahatti,
Age: 05 years, Occ: Student,
(Aadhaar No.4959 2847 1952)
R/o: Ingalahalli, Tq: Hubballi, Dist: Dharwad.
3. Smt. Bhagyashree W/o. Mahadevappa Byahatti,
Age: 30 years, Occ: Household work,
R/o: Ingalahalli, Tq: Hubballi, Dist: Dharwad.

(Petitioner No.1 & 2 are minors who are under care and custody of natural mother who is petitioner No.3.)

(By Sri. B.T. Beeralli, Adv.)

Vs.**RESPONDENT/S:** - Nil -

i.	Provision under which the application is filed	U/s 8 & 9 of Minor and Guardian Act and Sec.10 & 29 of the Guardian and Wards Act, 1890.
ii.	Relief sought for	Appointment of guardian for minor & permission to sell the share of minor in the portion of petition property.
iii.	The date on which the application is filed	09.01.2026
iv.	Number of the application.	--
v.	The date on which the objection is filed by different respondent/s.	--
vi.	The date on which the order was passed on the said application.	11.08.2026

ORDER

This petition is filed U/s 8 & 9 of Minor and Guardian Act and Sec.10 & 29 of the Guardian and Wards Act, 1890 for appointment of petitioner No.3 as minor guardian of the petitioner No.1 & 2 and for permission to sell the share of minor petitioner No.1 & 2 to the extent of 02 acres in the portion of petition property bearing R.S.No.295/3 measuring 10 acre 02 guntas PK 04 guntas remaining 09 acres 38 guntas situated at Magadi village, Tq: Shirahatti, Dist: Gadag (hereinafter referred as petition property).

2. The brief facts of the case of the petitioners is that, the petitioner No.3 is natural mother of the petitioner No.1 & 2. The petitioner No.1 & 2 are minors. The minor petitioner no.1 & 2 are in the care and custody of the petitioner No.3. the portion of petition property is joint family property and after death of husband of petitioner No.3 i.e. the father of petitioner no.1 & 2, the name of the petitioner No.1 & 3 got mutated in the revenue records to the extent of 02 acres out of Sy.No.295/3 measuring 10 acres 02 guntas PK 04 guntas remaining 09 acres 38 guntas by virtue of succession. The said portion of petition property is inconvenient to the petitioners to cultivate the same. Except the portion of petition property the petitioners are having another property bearing R.S.No.59/3 measuring 05 acres 15 guntas situated at Ingalahalli village of Hubballi Taluk. The petitioner No.3 is in need of money for the educational and other expenses of the minor petitioner No.1 & 2 and for repayment of hand loans which availed by the husband of petitioner No.3 and father of petitioner No.1 & 2 during his lifetime. Hence, it is very necessary for the petitioners to sell the share of the minor petitioner No.1 & 2 in the portion of petition property for benefit and future welfare of the minor petitioner No.1 & 2 and for repayment of hand loans which availed by the husband of petitioner No.3 and father of petitioner No.1 & 2 during his

lifetime. The petitioner No.3 is ready to abide by the direction issued by the Court. If the portion of petition property is sold, it will not be adverse to the interest of minor petitioner No.1 & 2. So, pray to allow the petition.

3. After registration of the case, citation was issued in the newspaper and none have appeared in response to the paper publication.

4. In order to prove their case, the petitioner No.3 has examined as PW.1 and got exhibited the documents as per Ex.P1 to Ex.P12.

5. Heard the arguments and perused the records.

6. On the basis of the material available on record, the following points arise for consideration:

- 1) Whether the petitioner No.3 Smt. Bhagyashree W/o. Mahadevappa Byahatti is competent person to be appointed as guardian of minor petitioner No.1 & 2?
- 2) Whether the petitioner No.3 has made out sufficient grounds to permit her to sell the share of minor petitioner No.1 & 2 in the portion of petition property?
- 3) What order?

7. My answer to the above points are as under:

Point No.1 : In the Affirmative.

Point No.2 : In the Affirmative.

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

REASONS

8. **POINTS No.1 AND 2 :** Since these points are inter-connected with each other and hence, to avoid repetition of facts and evidence they are taken together for common discussion.

9. The petitioner No.3 is the natural mother of petitioner No.1 & 2. She filed her affidavit in lieu of the examination-in-chief of PW.1, wherein reiterated the averments of the petition stating that, she is natural mother of the petitioner No.1 & 2. The petitioner No.1 & 2 are minors and they are under the care and custody of the petitioner No.3. the portion of petition property is joint family property and after death of her husband i.e. the father of petitioner no.1 & 2, the name of herself and petitioner No.1 got mutated in the revenue records to the extent of 02 acres out of Sy.No.295/3 measuring 10 acres 02 guntas PK 04 guntas remaining 09 acres 38 guntas by virtue of succession. The said portion of petition property is inconvenient to the petitioners to cultivate the same. Except the portion of petition property the petitioners are having another property bearing R.S.No.59/3 measuring 05 acres 15 guntas situated at Ingalahalli village of Hubballi Taluk. She is in need of money for the educational and other expenses of the minor

petitioner No.1 & 2 and for repayment of hand loans which availed by her husband and father of petitioner No.1 & 2 during his lifetime. Hence, it is very necessary for the petitioners to sell the share of the minor petitioner No.1 & 2 in the portion of petition property for benefit and future welfare of the minor petitioner No.1 & 2 and for repayment of hand loans which availed by her husband i.e. the father of petitioner No.1 & 2 during his lifetime.

10. In support of their case, the petitioners have produced the documents as per Ex.P1 to Ex.P12. The Ex.P1 is RTC extract of petition property discloses that it is standing in the names of the petitioner No.1 & 3 and others jointly and they are in joint possession of the same. The Ex.P2 is RTC extract and Ex.P4 is the copy of Mutation register in respect of R.S.No.59/3 of Ingalahalli village of Hubballi Taluk both disclose that they are standing in the names of the petitioner No.1 & 3 jointly and they are in joint possession of the same. The Ex.P3 is the copy of Mutation register in respect of portion of petition property discloses that the name of petitioner No.1 & 3 got mutated in the revenue records to the extent of 02 acres out of Sy.No.295/3 measuring 10 acres 02 guntas PK 04 guntas remaining 09 acres 38 guntas by virtue of succession. The Ex.P5 & 6 are the Birth certificates of petitioner No.1 & 2

respectively and Ex.P7 is the School certificate of petitioner No.1 all disclose that the petitioner No.1 & 2 are born on 03.09.2019 and 27.09.2021 respectively. The Ex.P8 is the Survivor certificate discloses that the petitioner No.3 is the wife and petitioner No.1 & 2 are the sons of deceased Mahadevappa Byahatti. The Ex.P9 to 11 are the Aadhaar cards of petitioner No.1 to 3 respectively disclose that they are the resident of Ingalahalli village of Hubballi Taluk and the Ex.P12 is the Death certificate of Mahadevappa Byahatti discloses that the husband of petitioner No.3 and father of minor petitioner No.1 & 2 died on 10.05.2021.

11. The above oral and documentary evidence adduced by the petitioners has remained unchallenged as none have appeared before the court in response to publication of citation in the daily newspaper. There is no reason to disbelieve the said unchallenged oral and documentary evidence produced by the petitioner No.3.

12. From the above said oral and documentary evidence on record it is clear that, the portion of petition property is jointly standing in the names of the petitioner No.1 & 3 and they are in joint possession of the same.

13. The petitioner No.1 & 2 are minors and the petitioner No.3 - Smt. Bhagyashree W/o. Mahadevappa Byahatti is their natural

mother and she has given a declaration as provided U/s.10(3) of the Guardian and Wards Act that she is willing to act as guardian of the minor petitioner No.1 & 2. Looking into all the material documents produced by the petitioners and also the need of petitioner No.3, this court inclined to appoint the petitioner No.3 as minor guardian for petitioner No.1 & 2. Hence, the petitioner No.3 is a competent person to be appointed as guardian.

14. Further, petitioner No.3 has sought the sale of share of the minor petitioner No.1 & 2 in the portion of petition property for the benefit, welfare and for securing future of them. If by imposing conditions, the permission is given to the petitioner No.3 to sell the share of minor petitioner No.1 & 2 in the portion of petition property then it would reach both the ends of justice and moreover, the petitioner No.3 is none other than the mother of minor petitioner No.1 & 2. Hence, the petitioner No.3 is permitted to sell the share of minor petitioner No.1 & 2 in the portion of petition property by imposing suitable conditions. Hence, Points No.1 and 2 are answered in the affirmative.

15. **POINT No.3** : In view of findings on the above points and for the reasons discussed supra, I proceed to pass the following;

ORDER

The Petition filed by the petitioners U/s 8 & 9 of Minor and Guardian Act and Sec.10 & 29 of the Guardian and Wards Act, 1890 is hereby allowed.

The petitioner No.3 -Smt. Bhagyashree W/o. Mahadevappa Byahatti is appointed as guardian of minor petitioner No.1 & 2.

The petitioner No.3 is permitted to sell the share of minor petitioner No.1 & 2 to the extent of 02 acres in the portion of petition property bearing R.S.No.295/3 measuring 10 acre 02 guntas PK 04 guntas remaining 09 acres 38 guntas situated at Magadi village, Tq: Shirahatti, Dist: Gadag subject to the following conditions;

1) The petitioner No.3 is hereby ordered to protect the interest and also welfare of the minor petitioner No.1 & 2 in all manners.

2) Further the petitioner No.3 shall deposit the share of sale consideration amount of minor petitioner No.1 & 2 in the name of them in any Nationalized Bank of the choice of petitioner No.3 till the minor petitioner No.1 & 2 attain the age of majority.

3) Further the petitioner No.3 is at liberty to withdraw the periodical interest on the FD and utilize the same for the better welfare of the minor petitioner No.1 & 2 and to meet the educational expenditure.

4) The said permission for sale of the portion of petition property is given to petitioner No.3 subject to the realization of any charges which are created on the portion of petition property.

In the light of above said conditions, the petitioner No.3 is permitted to sell the share of the minor petitioner No.1 & 2 in the portion of petition property and if any of the above said conditions are violated by the petitioner No.3 then the said sale is not binding upon the share of minor petitioner No.1 & 2.

The petitioner No.3 shall produce the copy of the sale deed/s and also produce the FD receipt/s before the Court.

Issue Guardianship Certificate accordingly to the petitioner No.3 -Smt. Bhagyashree W/o. Mahadevappa Byahatti on her executing indemnity bond along with one surety.

No order as to costs.

(Dictated to the Stenographer, typed by her directly on computer, corrected by me and then pronounced in the open court on 11th day of August, 2026.)

(Nagaveni)
Prl. District and Sessions Judge,
Gadag.

ANNEXURE

LIST OF WITNESSES EXAMINED FOR PETITIONER/S SIDE:

PW.1 : Smt. Bhagyashree W/o. Mahadevappa Byahatti.

LIST OF DOCUMENTS EXHIBITED FOR PETITIONER/S SIDE:

Ex.P1 : RTC extract of petition property.

Ex.P2 & 4 : RTC extract & Mutation register of R.S.No.59/3.

Ex.P3 : Mutation register of portion of petition property.

Ex.P5 & 6 : Birth certificates of petitioner No.1 & 2 respectively.

Ex.P7 : School certificate of petitioner No.1.

Ex.P8 : Survivor certificate.

Ex.P9 to 11 : Aadhaar card of petitioner No.1 to 3 respectively.

Ex.P12 : Death certificate of husband of PW.1.

**LIST OF WITNESSES EXAMINED AND DOCUMENTS
EXHIBITED FOR RESPONDENT/S SIDE:**

- NIL -.

(Nagaveni)
Prl. District and Sessions Judge,
Gadag.