

**IN THE COURT OF THE XXVI ADDL. CITY CIVIL &
SESSIONS JUDGE AT MAYO HALL BENGALURU (CCH-20)**

Present:

**Smt.Yermal Kalpana, B.Sc., LL.M.,
XXVI Addl. City Civil & Sessions Judge, Bengaluru.**

Dated this the 6th day of March, 2023

G & W.C. No.25001/2021

Petitioner:-

Kum.Soumya Gore

Aged about 10 years, D/o Smt. Poorwa Gore, R/a Flat No.303, Saravana Bimalkant Residency, M.S.Ramaiah College Road, Mathikere, Bengaluru 560 04, Karnataka, Petitioner being minor represented by her mother and natural guardian Smt.Poorwa Gore, Aged about 37 years, W/o Late Sri.Alok Kashinath Gore, R/a Flat No.303, Saravana Bimalkant Residency, M.S.Ramaiah College Road, Mathikere,Bengaluru 560054.

[By D.N-Adv.

Vs.

Respondent:-

N I L

ORDER

The petitioner has filed this petition under Section-8 of the Hindu Minority and Guardianship Act, 1956, seeking permission to the natural guardian Smt.Poorwa Gore to sell the schedule property on behalf of the minor petitioner.

2. The brief facts of the petition are that, the property bearing No.30, new BBMP B katha No.223/74, Orange Tree, Kundalahalli village, K.R.Puram Hobli, Bengaluru East Taluk, which is described as the petition schedule property, had been acquired by the father and mother of the petitioner under a Registered Sale Deed dtd. 16.04.2010. The records were changed in the name of the purchasers namely Sri.Alok Kashinath Gore and Smt. Poorwa Gore. Pursuant to the death of Alok Kashinath Gore on 29.04.2012, the katha was transferred in the

name of Smt.Poorwa Gore. Sri.AlokKasinatha Gore died on 29.04.2012 at Gurgaon leaving behind his wife Smt.Poorwa Gore, daughter Kum.Soumya Gore petitioner and his mother Smt. Kirti Gore as his legal heirs of the petition schedule property. The petitioner is a minor and Smt.Poorwa Gore being the mother of the minor petitioner and natural guardian is working as Post Doctoral Researcher at Indian Institute of Sciences, Bengaluru and she has not remarried and wants to relocate and hence she wants to execute the sale deed and to get the same registered on behalf of the minor in respect of the petition schedule property and invest/spend the said amount accrued in respect of their share of the property for the benefit of minor. The petitioner contends that for the benefit of her minor daughter, the amounts to be needed to meet the present and future expenses like education,

maintenance, marriage, etc. and also as she intends to purchase a property in the name of the minor at Bilaspur/Raipur in Chhattisgarh, she needs to sell the schedule property on behalf of the minor. Hence she has filed this petition. On these grounds the petitioner has prayed for the reliefs.

3. The spot citation was ordered to be issued on 08.07.2021 with regard to the institution of petition. In pursuance of the same, nobody has appeared and contested the petition.

4. In support of the petitioner's case, the mother and natural guardian of the petitioner namely Smt.Poorwa Gore got examined as P.W.1 and got marked in all 7 documents as Exs.P.1 to P.7.

5. Heard arguments.

6. The points that arise for my consideration are as follows:-

1) Whether the mother and natural guardian of the minor petitioner is entitled for permission to sell the petition schedule property?

2) What order?

7. For the reasons stated in the subsequent paragraphs, I answer above points as follows:-

POINT No.1 :- In the **negative**

POINT No.2 :- As per final order for the following

REASONS

8. Point No.1:- The mother and natural guardian Smt.Poorwa Gore has filed this petition on behalf of the minor Kum.Soumya Gore, who born from her deceased husband Sri.Alok Kashinath Gore. The petitioner was born

to Smt. Poorva Gore and the deceased Alok Kashinath Gore on 14.07.2011. Sri. Alok Kashinath Gore died on 29.04.2012 at Gurgaon, Haryana. The petitioner is the guardian of the minor petitioner who is aged about 10 years and she is under the care, custody and protection of her mother. Originally the petition schedule property belonged to Alok Kashinath Gore and Smt. Poorva Gore which they had purchased under registered Sale deed dated 16.04.2010 and after the death of petitioner's father the khata has been changed in the name of the petitioner's mother Smt. Poorva Gore.

9. The natural guardian of the petitioner Smt. Poorwa Gore has sworn to an affidavit in lieu of her examination in chief and she has reiterated the petition averments. She has also produced the following documents:-

Ex.P.1	Certified copy of the Sale Deed dated 16.04.2010
Ex.P.2	B Katha extract
Ex.P.3	Tax paid receipt
Ex.P.4	Encumbrance Certificate
Ex.P.5	Original Aadhar Card of Soumya Gore/petitioner
Ex.P. 6	Marriage Certificate
Ex.P.7	Death Certificate of Alok Gore

10. There are no respondents in this case. Even after taking public notice through paper publication, no one has appeared and objected to the petitioner's claim. However, that itself cannot be consideration in present case for deciding whether the natural guardian can be permitted to sell the entire petition schedule property including the share of the minor petitioner and it has to be decided whether the said sale is in the welfare of the minor.

11. The petition schedule property is as follows:-

*“All portion of the property belonging to bearing BBMP
B Katha No.223/74 Project known as Orange Tree,
Kundalahalli village, K.R.Puram Hobli, Bengaluru East Taluk
bounded on the*

East by : Road

West by : Unit No.29

North by : Unit No.14

South by: Road”

12. The description of the schedule property shows that it is situated in a prime locality. The natural guardian claims that she intends to relocate herself and purchase a property in the name of the minor in their home town Bilaspur/Raipur in the State of Chattisgarh.

13. The mother of the petitioner Smt. Poorva Gore who has been examined as PW1 has stated that after the death of her husband the minor petitioner has now inherited the petition schedule property as co-owner having her 1/6th share along with herself and her mother

in law. PW1 has stated that she is now intending to sell the property for the betterment of the minor petitioner and the family members. PW1 has also stated that she is working as post Doctoral Researcher at Indian Institute of Science, Bengaluru and has relocated herself and her minor daughter to Raipur for better avocation and for providing good education to her daughter and her mother in law has also relocated to her native.

14. The petitioner is seeking to sell the 1/6th share of the minor petitioner but on perusal of the record it can be seen that the petition schedule property is the only asset belonging to the minor petitioner. Considering the future of the minor petitioner, her education and other expenses, her mother is intending to sell the schedule petition property to the prospective buyers.

15. On considering the case of the petitioner, the natural guardian being the mother of the minor petitioner has a bounden duty and personal obligation to maintain her daughter irrespective of possessing or nor possessing immovable property or income. PW1 is capable of earning and has no physical disability and hence she is liable to find source and maintain her minor daughter. PW1 has nowhere stated in her petition or in her evidence that she is physically incapable of earning. On the other hand, she has stated that she has working as post Doctoral Researcher at Indian Institute of Science, Bengaluru where the petition schedule property is also situated which shows that the petitioner has an ability to work and earn.

16. The petition schedule property is situated in a prime locality i.e., at K.R.Puram Hobli and it is surely a property having good valuation, if the share of the minor

petitioner is preserved till she attains marriageable age or at least till she attains 21 years of age, she will become entitled to decide her rights and interests and by that time the petition schedule property will have accrued a good valuation and would provide stability to her future life. The date of birth of the minor petitioner is shown as 14.11.2011 and the death of her father Sri. Alok Kashinath Gore is shown to be on 29.04.2012 which goes to show that PW1 being her natural guardian has maintained her independently out of her own income, since the death of her husband. PW1 has not disclosed her income or produced the documents, hence considering the above circumstances, it can be seen that the welfare of the minor child does not lie in permitting her mother to sell her share of the petition schedule property, that too, when PW1 herself is employed at Bengaluru where the petition

schedule property is situated and her claim is she intends to purchase a property either at Bilaspur or Raipur, State of Chattisgarh.

17. Hence considering the overall circumstances it can be seen that this is not a fit case to permit the Sale of the minor petitioner's share in the petition schedule property. With the accrual of the price over time, the petition schedule property may stabilize the future of the minor petitioner. PW1 being the natural guardian and biological mother of the minor petitioner, her love for the child is not doubted but only her wisdom is being considered. Hence, in view of the reasons discussed above this is not a fit case to grant permission as prayed for.

18. POINT No.2 :- For the foregoing reasons, I proceed to pass the following :-

ORDER

The petition filed under Section-8 of the Hindu Minority and Guardianship Act, 1956, seeking permission to the natural guardian Smt.Poorwa Gore to sell the petition schedule property on behalf of the minor Kum.Soumya Gore of her mother and natural guardian **is hereby dismissed.**

No order as to costs.

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(Dictated to the Stenographer, transcript thereof, is corrected and then pronounced by me in the open court on this the **6th day of March, 2023**)

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(Yermal Kalpana)
XXVI Addl. City Civil Judge, Mayo Hall,
Bengaluru.

ANNEXURE

1. List of witnesses examined for the petitioner :

P.W.1 Smt.Poorwa Gore

2. List of witnesses examined for respondent:-

Nil

3. List of documents exhibited for petitioner :

Ex.P.1	Certified copy of the Sale Deed dated 16.04.2010
Ex.P.2	B Katha extract
Ex.P.3	Tax paid receipt
Ex.P.4	Encumbrance Certificate
Ex.P.5	Original Aadhar Card of Soumya Gore/petitioner

Ex.P. 6	Marriage Certificate
Ex.P.7	Death Certificate of Alok Gore

4. List of documents exhibited for respondent:

NIL

(Yermal Kalpana)
XXVI Addl. City Civil Judge
Mayo Hall, Bengaluru.

(Order pronounced in the open Court
vide separate Order)

ORDER

The petition filed under Section-8 of the Hindu Minority and Guardianship Act, 1956, seeking permission to the natural guardian Smt.Poorwa Gore to sell the petition schedule property on behalf of the minor Kum.Soumya Gore of her mother and natural guardian is **hereby dismissed.**

No order as to costs.

(Yermal Kalpana)
XXVI Addl. City Civil Judge,
Mayo Hall, Bengaluru.

