

MHYA010000772026



Presented on : 07/01/2026

Registered on : 08/01/2026

Decided on : 13/03/2026

Duration : Y - M - D  
00 04 08

IN THE COURT OF AD-HOC DISTRICT JUDGE-1, YAVATMAL.  
(Presided over by P. S. Ingle)

Civil Misc. Application No. 5/2026

Exhibit No :- 20

1. Smt. Nilima Chandrashekhar Mithe,  
Aged about 42 years, Occu. : Agriculturists

2. Ku. Gunjan Chandrashekhar Mithe,  
Aged about 16 years, Occu. : Education

Soham Chandrashekhar Mithe,  
Aged about 11 years, Occu. : Education

All R/o. Dadarao Bijave, Ved Dharini  
Nagar, Umarsara, Yavatmal, Dist-Yavatmal.

**Applicant No. 2 and 3 Through Natural  
Guardian Mother**

.... Applicants

-: Versus :-

Nil

.... Non-Applicant

.....  
Shri. A. D. Chaudhary, Advocate for the Applicants.  
.....

### J U D G M E N T

(Delivered on 13<sup>th</sup> March 2026)

This is the application filed by the applicant Nilima Under Under Section 8 of the Hindu Minority and Guardianship Act read with Section 29 of the Guardians and Wards Act, 1890, for granting of a permission to applicant Nilima, as the Natural Guardian

of minor applicants Gunjan and Soham, to sell minor's joint interest in the field No.19/1/A, which is specifically described in Para No. 2 of the application.

02) Briefly, the applicant's case is that applicant Nilima was the wife of Chandrashekhar Sheshrao Mithe and applicants Gunjan and Soham are their minors sons. However, on 11/10/2021, Chandrashekhar Sheshrao Mithe died. However, after his death, names of the applicants were jointly entered regarding the field Gat No.19/1/A, of Mouza Rajegaon (Khurd), Tq. Ghatanji, District - Yavatmal (hereinafter called as "the property", for the sake of brevity). After his demise, for the education of the minors and for the fulfillment of daily needs, the applicants wants to sell 0 H 80 R land, out of the above referred field. In the circumstance, it is required to sell the joint interest of minors in the property. Accordingly, applicant Nilima agreed to sale the portion of the property to Sayyad Musvver Sayyad Shabbar. However, as applicants Gunjan and Soham are minors, the said permission is required from this Court. Hence, they have preferred this application for granting of such permission.

03) Having received this application, its Paper Publication was made. However, nobody appeared to object this claim.

04) Perused the record of the case. Heard the learned Counsel Shri. A. D. Chaudhary for the applicants.

05) The points that fall for my consideration are as under and I have recorded my findings thereon for the reasons given thereafter :-

<u>Sr.No.</u>	<u>Points</u>	<u>Findings</u>
1.	Whether the permission to sell the undivided interest of minors Gunjan and Soham is required to be granted to applicant Nilima ?	... No.
2.	What Order ?	Application is rejected.

**-: Reasons For The Findings :-**

**As To Point No. 1:**

06) In support of this application, applicant Nilima has examined herself at Exhibit No. 11 and she reiterated her entire pleadings. In addition thereto, the applicants relied upon the documents i.e. Agreement of sale (Exhibit No. 12), Death Certificate (Exhibit No. 13), Copies of Adhar Cards (Exhibit No. 14 to17) and Paper Publication (Exhibit No. 18).

07) Heard Shri. A. D. Chaudhary, the learned Advocate for the applicants. He has submitted that in order to ensure proper upbringing of applicants Gunjan and Soham, to meet expenses on their education etc, it is required to sell the portion of the property. He further argued that it is in their paramount interest and is also needed to secure their future welfare.

08) Before appreciating his submissions, it is necessary to discuss the provisions of the relevant laws. Section 8 of the Hindu minority and Guardianship Act, simply, deals with the powers of Natural Guardian regarding the minor's property and restriction on

those powers. Whereas, Sections 29 read with 31 of the Guardians and Wards Act, 1890 (the said Act), provide that the guardian can not sell property of the minors without obtaining permission of the Court and the Court shall not grant a permission except in case of necessity or for the evident advantage to the minors. However, in this case, the applicants, have pleaded that minors Gunjan and Soham are having their undivided share/interest in the property. Similarly, perusal of property Card annexed with the agreement of sale (Exhibit No.12) shows that the minors Gunjan and Soham are having their undivided interest/share in the property and standing in their joint name. Here, it would be helpful to rely on the ratio laid down in the case of *Kisan Ramji Khandare Vrs. Kaushalyabai Gangaram, (2007 (4) Mh.L.J. 43)*. In that case, the Hon'ble Bombay High Court was pleased to discuss the provisions of Sections 8 and 29 of the Guardians and Wards Act, 1890. Similarly, in Para 27 and 28, the Hon'ble Bombay High Court observed that :-

“ 27. In *Narayan Laxman Gilankar Vrs. Udaykumar Kashinath Kaushik*, this Court held that the interest of minors in the joint family property is kept outside the reach of the provision of Section 6 and 12 of Hindu minority and Guardianship Act, leaving it to the natural guardian to deal with it in accordance with customary Hindu Law. The undisputed fact situation in the given case was that the property was the joint family property owned by widow mother and her two children. The mother was the natural guardian. The property was not divided by metes and

bounds and minors had only **undivided** and unspecified **shares** in the same. This Court observed: Section 8 with which this matter is concerned will have to be viewed and interpreted keeping these basic features of the Act in view. Section 8 speaks of power of natural guardian in relation to "immovable property of minors" which would mean minor's definite property and not his fluctuating indefinite interest in the joint family property. Language employed in Section 8 seems to be in pari materia with Section 29 of the Guardians and Wards Act and hence both will have to be viewed and construed similarly. Thus, it appears that **intention of Section 8 is not to fetter the customary power of natural guardian** in the matter of dealing with joint family **property including minors undivided share.**"

“28. In *Sunamani Dei Vrs. Babaji Das and Others*, it is held that **natural guardian can alienate even the minors' share under the personal law.**"

09) Thus, in view of this legal position, it can safely be concluded that Sections 29 and 31 of the said Act don't fetter the Customary Powers of the natural guardian, at the time of dealing with the minor's undivided interest in the property. Applying this proposition to the case in hand, it appears that here also, after demise of late Chandrashekhar, his legal representatives i.e. the applicants, acquired their undivided interest in the property. Consequently, in the light of ratio laid down in the above case, provisions of Section 29 of the said Act would have no bearing to the

present case. If it is said in other words, as there is no separate or absolute property of minors Gunjan and Soham and they had only 'undivided interest' in the property, it is not required for applicant Nilima, being their Natural Guardian, to ask for any such permission. Suffice it to say that Sections 29 and 31 of the Guardians and Wards Act, 1890 are applicable to separate or absolute properties of a minors and a requisite permission is needed for the transfer thereof.

10) Apart from this, it is pleaded by the applicants that for the purpose of education of minors, it is necessary to sell the property. However, the applicants has not adduced any documentary evidence i.e. Mark sheets, Bonafide Certificates of School, etc. to demonstrate that minors are taking education. Thus, it is crystal clear that the applicants have not adduced any evidence in support of their own pleadings, particularly in respect of the education of the minors. Consequently, the applicants have not proved that the sell of the property is for necessity or for the evident advantage to the minor. In the result, I answered point No.1 in the negative and in answer to point No.2, I pass the following Order :-

- : **ORDER** :-

Application stands rejected.

Date : 13/03/2026.  
Yavatmal.

(P. S. Ingle)  
Ad-hoc District Judge-1,  
Yavatmal.

**CERTIFICATE**

“I affirm that, the contents of this P.D.F file Judgment/Order are same word to word, as per the original Judgment/Order.

Name of the Stenographer	Smt. D.S. Kurzadkar/Kolhe Stenographer Grade-I
Name of the Court	Ad-hoc District Judge-1, Yavatmal
Date of Signature of Presiding Officer	13/03/2026.
Date of Judgment Uploaded	13/03/2026.

Date : 13/03/2026  
Yavatmal.

**(D. S. Kolhe)**  
Stenographer Grade-I,  
Ad-hoc District Judge-1, Yavatmal.