

MHYA010022882024



Presented on : 19/10/2024

Registered on : 22/10/2024

Decided on : 13/03/2026

Duration : Y - M - D  
01 04 22

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

**Civil Misc. Application No. 187/2024**

**Exhibit No :- 25**

**Ku. Vaibhavi Pravin Talpelwar,**  
Aged about 14 years, Occu. : Education  
Through Natural Guardian Mother

**Smt. Sonali Pravin Talpelwar,**  
Aged about 44 years, Occu. : Labour  
R/o. Yerla, Tq. Hinganghat,  
District-Wardha

.... **Applicants**

**-: Versus :-**

**Nil**

.... **Non-Applicant**

.....  
Shri.S. S. Zamad, 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 Sonali Under Section 8 of the Hindu Minority and Guardianship Act for granting of a permission to applicant Sonali, as the Natural Guardian of minor applicant Vaibhavi, to sell minor's joint interest in the field Gat No.83/3 admeasuring 1 H 05 R, which is specifically described in Para No. 1 of the application.

02) Briefly, the applicant's case is that applicant, Pravin

Marotrao Talpelwar was the husband of Sonali and applicant Vaibhavi is their minor daughter. However, on 15/11/2022, Pravin Marotrao Talpelwar died. Field Gat No.83/3 admeasuring 1 H 05 R of Dhanora, Tq. Ralegaon District - Yavatmal (hereinafter called as "*the field*", for the sake of brevity) was owned by Pravin Marotrao Talpelwar. However, after his demise, names of the applicants were jointly entered in the said field, alongwith son by name Sanskar. After his demise, nobody is cultivating the field and the adjacent cultivator is cultivating the same. Similarly, the field is at the distance of 40 k.m. of their residence. The applicants are in need of funds for the education of the minor. In the circumstance, it is required to sell the joint interest of minor Vaibhavi in the field. Accordingly, applicant Sonali agreed to sale the field to Bhushan Pramod Chamate. However, as applicant Vaibhavi a is minor, the said permission is required from this Court. Hence, they had to prefer 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. S. S. Zamad 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 :-

<b><u>Sr.No.</u></b>	<b><u>Points</u></b>	<b><u>Findings</u></b>
1.	Whether the permission to sell the undivided interest of minor Vaibhavi is required to be granted to applicant Sonali ?	... No.
2.	What Order ?	Application is rejected.

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

**As To Point No. 1:**

06) In support of this application, applicant Sonali has examined herself vide Exhibit No. 14 and Bhushan Pramod Chamate vide Exhibit No.33. Both these witnesses have deposed as per the pleadings of the applicants. In addition thereto, the applicants relied upon the documents i.e. Copies of Adhar Cards of Vaibhavi and Sonali (Exhibit No.15 and 16), Copy of 7/12 extract (Exhibit No.17), Copy of Birth Certificate (Exhibit No.18), Copy of Receipt of Paper Publication (Exhibit No.19) and Copy of Paper Publication (Exhibit No.20).

07) Heard Shri. S. S. Zamad, the learned Advocate for the applicants. He has submitted that in order to ensure proper upbringing of applicant Vaibhavi, to meet expenses on her education etc, it is required to sell the field. He further argued that it is in her paramount interest and is also needed to secure her 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 minor 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 minor. However, in this case, the applicants, have pleaded that minor Vaibhavi is having her undivided share/interest in the field. Similarly, perusal of 7/12 extract (Exhibit No.17) shows that the minor Vaibhavi is having her undivided interest/share in the field. 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 minor 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 minor" 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 minor's 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 Pravin, his legal representatives i.e. the applicants, acquired their undivided interest in the field. 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 minor

Vaibhavi and she had only 'undivided interest' in the field, it is not required for applicant Sonali, being her 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 minor 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 minor, it is necessary to sell the field. However, the applicants has not adduced any documentary evidence i.e. Mark sheets, Bonafide Certificates of School, etc. to demonstrate that the minor is 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 minor. Consequently, the applicants have not proved that the sell of the field 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.