

**IN THE COURT OF PRINCIPAL DISTRICT JUDGE,
KURNOOL.**

**PRESENT: Sri N.Srinivasa Rao,
Principal District Judge, Kurnool**

Monday, the 13th day of March 2023

G.O.P. No.37 of 2022

Kukati Konda Pavani

..

Petitioner

-Versus-

1. Uppara Narayana

2. State Bank of India, represented ..
by its Branch Manager,
Market Yard Branch, Kurnool

Respondents

This petition coming on this day for hearing before me in the presence of Sri D.Mohammad Rafi, Advocate for the petitioner, the first respondent having reported as died and the second respondent having remained *ex parte*, upon hearing the petitioner and upon perusal of the record, this Court passed the following:

ORDER

This petition is filed by the natural mother of the minor children/U.Chetan Sagar and U.Deekshitha under Sections 7 to 10 and 29 of The Guardian and Wards Act, 1890, seeking for her appointment as guardian for the said minor children and to grant permission for her to mortgage the petition schedule property on behalf of the minors to State Bank of India, Market Yard Branch, Kurnool, for the purpose of developing the petition schedule

property for the benefit of the said minor children and for such other reliefs.

2. The petition schedule property is a residential Plot No.66 in an extent of 1750 Square feet or 194.44 Square Yards situated in Survey No.77 of Dinnedevarapadu Village, Kurnool Mandal and District.

3. A general notice by way of newspaper publication and tom-tom was ordered and the same were complied with and on the appointed date, which was 05-12-2022, none appeared in protest.

4. Notice sent to the first respondent through Court was returned, reporting that the first respondent died.

5. The second respondent, having received the notice, did not choose to appear and contest this petition, hence the second respondent was set *ex parte* on 05-12-2022.

6. In proof of the case, the petitioner testified as PW1 and got marked Ex.A1 to Ex.A9.

7. Heard the learned Counsel for the petitioner.

8. POINTS FOR CONSIDERATION:

1. *Whether the petitioner could be declared as guardian for the minor children?*

2. *Whether it is in the best interest of the minor children to permit the petitioner to mortgage the petition schedule property?*

9. POINT Nos.1 and 2:

The case set out in the petition and the facts deposed by PW1 are that PW1 is the mother and natural guardian of the minor children, namely U.Chetan Sagar and U.Deekshitha, who are said to be of 10 years and 8 years of age respectively. Ex.A3 is the attested copy of Aadhar card of U.Chetan Sagar and it shows his date of birth as 13-10-2011 and his father is Sri U.Ram Gopal. Ex.A5 is the Study, Conduct and Date of Birth Certificate of U.Chetan Sagar issued by the Head Master, Dr.K.K.R's Gowtham School, Guidivada. It also shows that the date of birth of this boy is 13-10-2011 and he is the son of Sri U.Ram Gopal. Thus, U.Chetan Sagar is minor even as on this date.

10. Ex.A4 is the attested copy of Aadhar card of U.Dixitha and it shows her date of birth as 21-12-2013 and her father is Sri U.Ram Gopal. Ex.A6 is the Study Certificate of U.Dixitha issued by the Principal, The Athena School, Dinnevarapadu, Kurnool. This document also shows that the date of birth of this girl is 21-12-2013 and she is the daughter of Sri U.Ram Gopal. Thus, U.Deekshitha is minor even as on this date.

11. According to PW1, Sri U.Ram Gopal is her husband and he died on 16-11-2016. It is evidenced by Ex.A7/death certificate. It

shows that Sri U.Ram Gopal died on 16-11-2016. Ex.A8 is the Meeseva copy of Family Member Certificate issued by the Tahsildar, Kallur. It shows that late Sri U.Ram Gopal was survived by his wife/petitioner herein, his son/U.Chetan Sagar and his daughter/U.Deekshitha. Ex.A2 is the attested copy of Aadhar Card of the petitioner and it shows that she is the wife of Sri U.Ram Gopal. All the above documents would show that they are all residents of Devarabanda Village, Dhone Mandal.

12. The evidence of PW1 is that the petition schedule property was purchased by her and her husband Sri U.Ram Gopal jointly under a registered sale deed dated 17-10-2016. In order to establish the said fact, the petitioner has filed Ex.A1, which is the registered sale bearing Document No.8125 of 2016, dated 17-10-2016. This document shows that the petitioner herein and her husband Sri U.Ram Gopal jointly purchased the petition schedule property from Sri K.Mohammed Rasool, S/o.K.Mohammed Saheb of Kurnool City for a valuable consideration of Rs.2,34,000/-.

13. The further evidence of PW1 is that her husband Sri U.Ram. Gopal died intestate on 16-11-2016, leaving behind him herself and the minor children/U.Chetan Sagar and U.Deekshitha to succeed to his half share in the petition schedule property. As already stated, these facts are evidenced by Ex.A7/death certificate and Ex.A8/family member certificate. The evidence of

PW1 further go to show that after the death of Sri U.Ram Gopal, she and the minor children succeeded to his estate.

14. The above material would show that the petitioner is the natural mother of the minor children/U.Chetan Sagar and U.Deekshitha and they are minors at the time of filing of this petition and by the time of these orders. The petitioner and the minor children are residents of Devarabanda Village, Dhone Mandal, Kurnool District and the petition schedule property is also situated in Dinnevarapadu Village, Kurnool Mandal, within the territorial jurisdiction of this Court.

15. The evidence of PW1 is that after the death of her husband Sri U.Ram Gopal, the minor children/U.Chetan Sagar and U.Deekshitha are under her care and custody and that she is not having sufficient financial capacity to maintain the family and to meet the educational and other expenses of her minor children/U.Chetan Sagar and U.Deekshitha, who are studying Class-V and Class-IV respectively. It is also the evidence of PW1 that as the value of the petition schedule property, which is a house plot, is increasing day by day, several persons are trying to trespass into it so as to occupy it illegally, therefore she apprehends that she could not save guard the said property from trespassers and rowdy elements. It is her further evidence that the petition schedule property is presently not yielding any money, therefore, she intends to develop the said property by making construction

in it by obtaining housing loan from the second respondent/Bank by mortgaging the petition schedule property, with a hope that if constructions are made in the said property, it would fetch good amount, which would be utilized for meeting the educational and other expenses of her minor children/U.Chetan Sagar and U.Deekshitha. PW1 states that except the petition schedule property, she has no other property. PW1 further deposes that the first respondent is her father-in-law and her mother-in-law left the house about more than 11 years ago without any reason or cause and her whereabouts are not known and there are no debts of her deceased husband. As already stated, the first respondent, who is the father-in-law of the petitioner herein, is reported to have died and there are no objectors to this petition. The minor children/U.Chetan Sagar and U.Deekshitha have got 1/3rd share each in the petition schedule property. The petitioner has filed Ex.A9/Market Value Assistance issued by the Joint Sub Registrar, Kurnool on 27-08-2022. As per this document, the petition schedule property is worth Rs.3,49,992/-. The facts deposed by PW1 appear to be correct. In these circumstances, this Court finds that it necessary to appoint the petitioner as guardian of the minor children/U.Chetan Sagar and U.Deekshitha and to permit her to mortgage the petition schedule property on behalf of her minor children/U.Chetan Sagar and U.Deekshitha with State Bank of India, Market Yard Branch, Kurnool, for the purpose of developing the petition schedule

property, as the same would undoubtedly be for the welfare and well-being of the said minor children.

Hence, these Points are answered in favour of the petitioner.

16. In the result, the petition is **allowed**. The petitioner/ Smt. Kukati Konda Pavani is appointed as a guardian for the person and property of her minor children/U.Chetan Sagar and U.Deekshitha. She is permitted to mortgage the petition schedule property with State Bank of India, Market Yard Branch, Kurnool for an amount not lesser than Rs.3,50,000/- [Rupees three lakhs fifty thousand only] for obtaining a housing loan. She shall complete the mortgage transaction within a period of six months from the date of this order and deposit a copy of the registered mortgage deed into Court. She is directed to utilize the said loan amount only for the purpose of making constructions in the petition schedule property, for the benefit of the minor children. No costs.

Typed to my dictation by the Stenographer on computer device directly, connected and pronounced by me in open Court, on this the 13th day of March 2023.

**PRINCIPAL DISTRICT JUDGE,
KURNOOL.**

APPENDIX OF EVIDENCEWitnesses examinedFor Petitioner:

PW1: Kukati Konda Pavani, W/o.late Uppari Ram Gopal, resident of Devarabanda Village, Dhone Mandal, Kurnool District.

For Respondents:

-None-

Exhibits markedFor Petitioners:

- Ex.A1: Original registered sale deed bearing Document No.8125 of 2016, dated 17-10-2016 executed in favour of the petitioner and Sri U.Ram Gopal by Sri K.Mohammed Rasool.
- Ex.A2: Attested copy of Aadhar card of the petitioner.
- Ex.A3: Attested copy of Aadhar card of U.Chetan Sagar.
- Ex.A4: Attested copy of Aadhar card of U.Deekshitha.
- Ex.A5: Study, Conduct and Date of Birth Certificate of U.Chetan Sagar issued by the Head Master, Dr.K.K.R's Gowtham School, Guidivada.
- Ex.A6: Study Certificate of U.Dixitha issued by the Principal, The Athena School, Dinnevarapadu, Kurnool.
- Ex.A7: Death certificate of U.Ramgopal.
- Ex.A8: Meeseva copy of Family Member Certificate issued by the Tahsildar, Kallur.

Ex.A9: Market Value Assistance dated 27-08-2022
issued by the Joint Sub Registrar, Kurnool.

For Respondents:

-Nil-

**PRINCIPAL DISTRICT JUDGE,
KURNOOL.**