

IN THE COURT OF THE DISTRICT JUDGE
SOUTH 24-PARGANAS, ALIPORE

Act XXXII Case No.43 of 2025

Present : Sri Himanil Bhattacharjee (WB01082), District Judge-in-charge

Sunayna Kundu

..... Minor

Arnab Kundu and Sumona Kundu Petitioners

Order No.07, dated 13.03.2026

The date is fixed for hearing argument.

Hazira is filed on behalf of the petitioners.

At this stage, petitioners file an application under Order 6 Rule 17 read with section 151 of C.P.C. for amendment of section of the main application which has been inadvertently written as section 29 of Guardians and Wards Act, 1890 instead of section 8 of Hindu Minority and Guardianship Act, 1956. Accordingly, prayer has been made for amendment of the cause-title of the plaint as per the schedule annexed with the application.

Heard. Perused. Considered.

Prayer for amendment is allowed.

BC-I to make necessary corrections in the cause-title of the main application so filed.

Heard argument posited by Learned Advocate for the petitioners in full.

Now, the record is taken up for passing order.

This is an application under Section 8 of the Hindu Minority and Guardianship Act, 1956 filed by the petitioners seeking permission for dealing with the property of the minor namely, Sunayna Kundu.

The factual backdrop of the case is that the petitioner no.2, prior to her marriage with the petitioner no.1, got married with one Suranjan Sen under the provision of The Special Marriage Act, 1954 and from their wedlock, a female child namely, Sunayna Sen was born on 09.09.2012. Subsequently, due to matrimonial discord, the petitioner no.2 left her matrimonial abode and the parties filed a Matrimonial Suit bearing No.401 of 2021 for dissolution of their marriage on mutual consent before this court. The said Matrimonial Suit got decreed on 20.11.2021 and the marriage between the petitioner no.2 and said Suranjan Sen got dissolved.

Prior to filing of the Matrimonial Suit, some terms and conditions were agreed upon between the petitioner no.2 and Suranjan Sen wherein the petitioner no.2 gifted the undivided 50% share of the schedule-mentioned property to her minor daughter by virtue of a Deed of Gift dated 21st September, 2021.

The petitioner no.1, being a near friend of the petitioner no.2 got married with the petitioner no.2 on 19.01.2023 under the provisions of The Special Marriage Act, 1954 and also intended to adopt the minor, and to that effect, the petitioner no.1 filed a Misc. Case (Adoption) bearing No.40 of 2023 before the Learned District Judge at Barasat, North 24-Parganas for adoption of the minor and the Learned District Judge at Barasat was pleased to allow the same and the petitioner no.1 was declared as the adoptive father of the minor.

Presently, for the overall welfare of the minor, the petitioner no.2 has decided to sell out the schedule property to Chetla Agrani Club Foundation and has executed a Deed of Conveyance. The petitioners have contended in the instant application that to secure the future and to ensure the overall welfare of the minor, the petitioners intend to sell out the schedule property. As such, the petitioners have filed the instant case praying for necessary order.

On perusal of the case record, it appears that General Notice of the instant case was published on 10.11.2025. It also appears that the subject matter of the instant *lis* was published in 'Bartaman' newspaper on 26.12.2025, however, none appeared to contest in the case.

The petitioner no.1 on 16.02.2026 deposed before this court as PW-1 and filed and proved the documents viz. The original Marriage Registration Certificate showing his marriage with the petitioner no.2 (marked as exhibit-1) and original birth certificate of the minor namely, Sunayna Kundu issued by the K.M.C. (marked as exhibit-2).

The petitioner no.2 on 26.02.2026 deposed before this court as PW-2 and filed and proved the documents viz. the certified copy of order No.12 dated 21.11.2014 passed by the Learned District Judge at Barasat in Misc.Case (Adoption) No.40 of 2023 (marked as exhibit-3) and the self-attested copy of Aadhaar Card (marked as exhibit-4).

Section 8 of the Hindu Minority and Guardianship Act, 1956 mandates that for sale of the minor's share in the schedule property (as mentioned in the schedule) through the natural guardian of the minor, permission of this Court is necessary. The text of the said provision is reproduced hereunder.

8. Powers of natural guardian – (1) *The natural guardian of a Hindu minor has power, subject to the provisions of this section, to do all acts which are necessary or reasonable and proper for the benefit of the minor or for the realization, protection or benefit of the minor's estate; but the guardian can in no case bind the minor by a personal covenant.*

(2) *The natural guardian shall not, without the previous permission of the court, -*

(a) *mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the immovable property of the minor; or*

(b) *lease any part of such property for a term exceeding five years or for a term extending more than one year beyond the date on which the minor will attain majority.*

(3) Any disposal of immovable property by a natural guardian, in contravention of sub-section (1) or sub-section (2), is voidable at the instant of the minor or any person claiming under him.

(4) No court shall grant permission to the natural guardian to do any of the acts mentioned in sub-section (2) except in case of necessity or for an evident advantage to the minor.

(5) The Guardians and Wards Act, 1890, shall apply to and in respect of an application for obtaining the permission of the court under sub-section (2) in all respects as if it were an application for obtaining the permission of the court under section 29 of that Act, and in particular -

(a) proceedings in connection with the application shall be deemed to be proceedings under that Act within the meaning of section 4A thereof;

(b) the court shall observe the procedure and have the powers specified in sub-sections (2), (3) and (4) of section 31 of that Act; and

(c) an appeal shall lie from an order of the court refusing permission to the natural guardian to do any of the Acts mentioned in sub-section (2) of this section to the court to which appeals ordinarily lie from the decisions of that court.

(6) In this section, "Court" means the city civil court or a district court or a court empowered under section 4A of the Guardians and Wards Act, 1890, within the local limits of whose jurisdiction the immovable property in respect of which the application is made is situate, and where the immovable property is situate within the jurisdiction of more than one such court, means the court within the local limits of whose jurisdiction any portion of the property is situate.

In the instant case, the petitioners being the parents of the minor intend to sell the minor's share in the schedule property by virtue of a Deed of Conveyance for incurring the expenses of the minor apropos overall welfare of the minor.

Upon considering the evidence adduced by the petitioners and taking into account the documents put forth, this court is of the considered view that the prayer of the petitioners, being the parents of the minor, should be allowed to provide substantial and speedy justice for the holistic development of the minor.

Hence,

it is,

ORDERED

that the instant Act XXXII Case bearing No.43 of 2025, be and the same is hereby allowed.

The petitioner no.2 namely, Sumona Kundu, being the natural guardian of the minor namely, Sunayna Kundu is given the liberty to deal with the share of the minor by way of executing Deed(s) and/or any sort of Agreement relating to transfer through the petitioners

in respect of the schedule property with an undertaking that the sale proceeds amounting to the share of the minor should be deposited in F.D./E.M.I. account of a Nationalized Bank/Indian Post Office.

The Fixed Deposit Receipts shall be deposited under the safe custody of the District Nazir, Nezarath Department, District Judge's Court at Alipore, South 24-Parganas.

The minor would be at liberty to withdraw the same, if necessary, from that custody of the Nazir after attaining the age of majority.

The petitioner no.2/mother is hereby directed that the interest, if any, accrued from the said Fixed Deposit amount from Bank or Indian Post Office, shall be fully utilized for the purpose of maintenance, medical treatment or any other expenses of the said minor only.

Both the petitioners are further directed that they will produce the minor before this court, as and when required, and will furnish a report in respect of the share of the minor deposited in the F.D. Account of a Nationalized Bank/Indian Post Office.

The petitioner/mother is also at liberty to withdraw the deposited amount, if at all required, only for the purpose of welfare of the minor, subject to obtaining prior permission from this court.

The instant case is thus disposed of accordingly.

Note the same in the Register and C.I.S.

Dictated & corrected by me.

Sd/- Himanil Bhattacharjee
District Judge (I/c)

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