



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 6TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO.100949 OF 2026 (GM-CPC)

BETWEEN:

SMT. DEEPA W/O. SHANKARASA
@ SHANKARA HABBIB @ HABIB,
AGED ABOUT 35 YEARS, OCC. HOUSEHOLD,
RESIDING AT DESAI NAGAR, NAVANAGAR,
GAMANAGATTI, HUBBALLI,
DHARWAD DISTRICT-580001.

...PETITIONER

(BY SRI. UMESH P.HAKKARAKI, ADVOCATE)

AND:

KRISHNASA S/O. KONERASA HABIB,
AGED ABOUT 90 YEARS, OCC. AGRICULTURE,
RESIDING AT VIKAS NAGAR, SIDDALINGESHWAR
COLONY, HUBBALLI, DHARWAD DISTRICT-580001.

...RESPONDENT

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA, PRAYING TO A. ISSUE WRIT OF CERTIORARI QUASHING THE IMPUGNED ORDER DATED 22.01.2026 PASSED BY 1ST ADDITIONAL SENIOR CIVIL JUDGE AND JMFC, HUBBALLI IN G AND WC NO.206/2025 (ON I.A.NO.II) AT ANNEXURE-'D'. B. ISSUE SUCH OTHER WRIT, ORDER OR DIRECTION AS THIS HON'BLE COURT DEEMS FIT IN THE INTEREST OF JUSTICE AND EQUITY.

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:
CORAM: THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI





ORAL ORDER

The present writ petition is filed aggrieved by the order passed on IA No.II in G & WC No.206/2025, dated 22.01.2026 by the I Addl. Senior Civil Judge and JMFC, Hubballi.

2. The petitioner herein had filed a petition under Sections 7 and 23 of the Guardians and Wards Act, 1890 (Hereinafter referred to as 'Act, 1890') seeking a relief that she should be appointed as a guardian to the property of the minor. The other relief is that, the Court may be pleased to grant permission to sell the interest of the minor in respect of the property undivided share and interest of the co-parcenary property. In that, the paternal grandfather had filed an application under Order I Rule 10(2) of CPC seeking to implead him as respondent. It is his case that the girl is studying in 8th Standard. The value of the property is more than Rs.1 Crore, but the mother of the minor wants to alienate the property just only for Rs.24,00,000/-, which is very low price. The petitioner, without there being any necessity to the minor child, is trying to sell the same against interest of the minor. It is stated that selling of minor's



property for low price is not in the interest and welfare of the minor child. It is also his case that there is an appeal before the High Court of Karnataka, Darwad bench in respect of very property in RFA No.100257/2020. The mother is staying in her parents' house. If she sells the property, the minor child will suffer loss and further there is no source for the minor's education. The petitioner herein had filed the objection to the said application stating that in an application filed under Section 7 of the Act, 1890, except the party, no other persons are necessary parties to the proceedings and therefore, the same has to be dismissed. The Court, by order impugned, had allowed the IA. While allowing the application, the Court had observed that in a proceeding seeking permission to alienate the minor's property, the paramount consideration of the Court is, the welfare and best interest of the minor. Any person who has direct and substantial interest in the estate from which the minor derives title and who raises bonafide concerns regarding the protection of such interest, cannot be said to be a stranger to the proceedings. Though the mother is the natural guardian of the minor, the presence of the



proposed respondent, who is the paternal grandfather and Class-I legal heir of the deceased, would assist the Court effectively and completely for adjudicating the real controversy, particularly with regard to the necessity of sale, adequacy of consideration and safeguarding the minor's interest. The impleadment of the proposed respondent would not prejudice the petitioner, nor would it enlarge the scope of the proceedings beyond the statutory duty of the Court under the Guardians and Wards Act, 1890. On the contrary, his presence would enable the Court to arrive at a just conclusion after hearing all interested stakeholders keeping the welfare of the minor at the forefront. Therefore, the Court held that the respondent grandfather is a proper and necessary party and accordingly, allowed the application.

3. Learned counsel appearing for the petitioner/mother submits that the order passed by the Court by impleading the grandfather is contrary to the provisions of the Act, 1890. He has drawn the attention of the Court to Sections 17 and 29 of the Act, 1890, which read thus:



"17. Matters to be considered by the Court in appointing guardian. (1) In appointing or declaring the guardian of a minor, the Court shall, subject to the provisions of this section, be guided by what, consistently with the law to which the minor is subject, appears in the circumstances to be for the welfare of the minor.

(2) In considering what will be for the welfare of the minor, the Court shall have regard to the age, sex and religion of the minor, the character and capacity of the proposed guardian and his nearness of kin to the minor, the wishes, if any, of a deceased parent, and any existing or previous relations of the proposed guardian with the minor or his property.

(3) If the minor is old enough to form an intelligent preference, the Court may consider that preference.

(4) omitted.

(5) The Court shall not appoint or declare any person to be a guardian against his will.

29. Limitation of powers of guardian of property appointed or declared by the Court.—Where a person other than a Collector, or than a guardian appointed by will or other instrument, has been appointed or declared by the Court to be guardian of the property of a ward, he 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 his ward, or

(b) lease any part of that property for a term exceeding five years or for any term extending more than one year beyond the date on which the ward will cease to be a minor."

4. It is further submitted that the mother, who is a natural guardian of the child, will not do anything, which is against the interest of the child. It is submitted that the enquiry under a petition that is filed under Section 7 of the



Act, 1890 is limited and the grandfather is not a proper and necessary party to this proceedings. The Court can decide the dispute that is raised by the mother with regard to appointing her as guardian and selling the property of the child, based on the material and for that purpose, the grandfather is not a necessary party and that is beyond the purport and the provisions of the Act, 1890. It is submitted that the Court observed that he is a Class-I legal heir, such a finding in the facts and circumstances is unwarranted. It is submitted that the Court is not deciding about any interse dispute between the family members and the grandfather even does not come under Class-I legal heir.

5. Having heard the learned counsel for the petitioner, perused the material on record. The petitione herein had filed an application seeking to appoint her as a guardian to the property of her child and also she wants to sell the property. The grandfather filed an application under Order I Rule 10 of CPC to implead himself as the respondent. It is the contention of the grandfather that this is the only property left for the child and if this property is sold, the minor child



would be left with no other property. Further, the mother wants to sell this property for an amount of Rs.24,00,000/-, when the property in the vicinity is more than Rs.1 Crore. The Court while considering the application of the grandfather had observed that no doubt the mother is a natural guardian, the grandfather has placed the facts before the Court in the interest of the minor child. The presence of the grandfather, who is the paternal grandfather and Class-I legal heir of the deceased, would assist the Court in coming to a just conclusion with regard to selling of the property. While adjudicating any issue under Section 7 of the Act, 1890 and while passing any of the orders, the paramount consideration of the Court is, the welfare of the child. Just because the natural guardian had filed a petition seeking to sell the minor's property, the Court basing on her submission, would not be doing it. The Court exercising the parent patriae jurisdiction looking at the welfare and the interest of the child, orders would be passed. Now, the grandfather being on record would be assisting the Court in a manner that is in the interest and welfare of the child. It is both the mother and the grandfather



are looking at the interest of the minor child. Along with these, the Court is also looking at the welfare of the child. In these circumstances, no prejudice would be caused to the petitioner, if the grandfather is impleaded as a party to the proceedings. Further, the Court is not going to decide any dispute interse between the mother and the grandfather. Even after the grandfather is impeded, the only issue that would be decided is, whether the property which the mother wants to sell, which belongs to the child, can be sold or not, or it is in the welfare of the child. In the considered opinion of the Court, there is no illegality with the order impugned. Accordingly, this Court proceeds to pass the following:

ORDER

- i) The present writ petition is ***dismissed***.
- ii) All I.As. in this writ petition shall stand closed.

Sd/-
JUSTICE LALITHA KANNEGANTI

JTR
CT: UMD
List No.: 1 SI No.: 16