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MA-4286-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE HIMANSHU JOSHI

ON THE 19th OF NOVEMBER, 2025MISC. APPEAL No. 4286 of 2025*JYOTIRAJ BALADAS AND OTHERS**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

*Shri Yogesh Singh Baghel along with Shri Praveen Mishra - Advocate
for the petitioner.*

Shri Nishant Yadav - P.L. for the respondent.

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ORDER

The present Misc. Appeal has been filed taking exception to the provision of section 47 of the Gurdian and Wards Act, 1890, challenging the order dated 27/02/2025 (Annexure A/1) passed by the learned first District Judge, Shahdol, District – Shahdol in MJC No. GW/07/2024 whereby the application of the appellant under section 8 of the Hindu Minority and Guardianship Act, 1956 (for short, hereinafter referred to as the "Act of 1956") has been rejected.

2. The short facts of the case are that the appellants have filed an application under section 8 of the Hindu Minority and Guardianship Act, 1956 for grant of permission to sale the share of the minor daughter and the same is registered as MJC No. GW/07/2024. As per the averments of the application, the appellant no. 1 is the mother and natural guardian of



appellant no. 2 minor daughter. The appellant no. 1 got married to Late Shri Ajay Kumar on 25/05/2012. The husband of the appellant no. 1 was working as Loco Pilot (goods) in Indian Railways and died on 25/05/2022 leaving behind wife and one minor daughter. During his lifetime, the husband of the appellant no. 1 had purchased a portion of land bearing Khasra no. 107/2/3 rakba 0.0150 hectare situated at Gram Sokhi, Patwari Halka Balpurva No.76, Tehsil Sohagpur, District – Shadol (MP). After the death of her husband, the appellant no. 1 was granted compassionate appointment at D.R.M officer Varanasi (U.P.). It is also stated in the application that after the death of the husband, the appellant along with her daughter has shifted and residing at Gram – Sonbarsa, Post -Ghathia, Tehsil – Mohhamadabad, District- Gazipur (UP).

3. The application further stated that the husband of the appellant no. 1 has purchased the said land and after his death, the names of the appellants were duly mutated in the revenue records. The appellant no. 1 wishes to sale the said land as the said land is 600 Km's away from his present place of residence. It is also stated that there is no one in the family of the appellant no. 1 to look after the said land. There are all the chances of land being encroached by some anti-social elements. The permission to sale the land has been sought looking to the future aspects of the appellant no. 2 for her upbringing and education. To support contentions of the application, appellant no. 1 herself has stepped into witness box and her testimony is supported by PW – 2 Santosh Kumar, a family friend.

4. The learned court below after appreciating evidence brought on



record and also giving a close look at the documents produced, has rejected the application on the ground that the minor daughter has equal share in the land and looking to her interest in the property, the sale can not be permitted. This order dated 27/02/2025 is put to test by filing the present appeal.

5. I have heard Shri Yogesh Singh Baghel, learned Counsel for the appellant. The Learned Counsel has vehemently opposed the impugned order on the ground that the order is bad in the eyes of law. It was also argued that the said land is 600 Kms away from this present place of residence and the possibility of encroachment on the land cannot be ruled out due to lack of care. It was also argued that the said sale transfer of the land is in the interest of minor. Lastly, it is argued that the court below has not assigned any proper and cogent reason to dismiss the application of the appellants.

6. The learned Counsel for State Shri Nishant Yadav has supported the impugned order and submitted that the interest of the minor is paramount in the facts and circumstances of the present case. It is also submitted that the appellant no. 2 is aged about 10 years and her higher studies has not started yet. The permission is rightly rejected as huge amount will be required at the time of higher studies of the daughter/ appellant no. 2.

7. With the assistance of the learned counsel for the parties, I have perused the material on record.

8. The 'natural guardian' word has been used in the Act of 1956. The natural guardian of Hindu minor is firstly the father and after him the mother. The power of disposal of the minor's property is only with the natural guardians. It is only when the father is disqualified or is no more, the mother



will become the natural guardian. In the present case, after the demise of the father, petitioner no. 1 being mother is the natural guardian and competent to approach the court of law. Section 8 (4) of the Act of 1956 lays down that the court cannot grant permission except in case of necessity or for evident advantage to the minor and also that it must be proved that there was in fact a necessity or advantage to the minor concerned, no person other than the natural guardian could be expected to prove the same in an application under the section.

9. While passing the order impugned, the trial court has come to the conclusion that the appellant no. 2 is a minor and not doing higher studies. Once, she get major then she is free to select the option to sell her portion as per her will. The court below has not found any cogent and reasonable ground for permission to sale. Where an application has been filed under section 8 (2) of the Act, 1956, the court shall endeavor to see whether the permission sought for the alienation of the minor's property is for the necessity or for the evident advantage to the minor's estate.

10. The record of the case reveals that the land is 600 kms away from the present place of residence of the appellants and admeasuring 1620 square feet. The prices of the land, these days, are touching new heights every day. Land Mafia are active in all parts of the country. As stated by the appellant no. 1 in her statement that it is not possible for her to regularly visit the place to take care of the land therefore, looking to the fact and circumstance of the case, in the considered opinion of this court the permission to sale the portion of the minor can be granted with certain restrictions.



11. The present appeal is allowed and the order dated 27/02/2025 is set aside. The appellant no. 1 is permitted to sale the land with a condition that 50 % of the sale proceeds were ordered to be deposited in any nationalized bank in the name of the minor as a fixed deposit which was to be renewed on expiry of the fixed term till minor attains majority.

12. With this observation the present appeal is **allowed**. No order as to cost

(HIMANSHU JOSHI)
JUDGE

Jasleen