



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

MISCELLANEOUS FIRST APPEAL NO. 2752 OF 2025 (GW)

BETWEEN:

SMT FATHIMATH JOHARA
AGED ABOUT 43 YEARS,
W/O LATE ADAM BEARY
HUPPA HOUSE,
PARENKI VILLAGE,
BELTHANGADY TALUK -574 224

...APPELLANT

(BY SRI. VASANTHA KUMAR, ADVOCATE)

AND:

NIL

...RESPONDENT

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA

THIS MFA IS FILED U/S.47(e) OF GUARDIANS AND
WARDS ACT AGAINST THE JUDGMENT AND DECREE DT.
19.02.2025 PASSED IN G AND WC.NO. 82/2024 ON THE FILE
OF THE PRL. SENIOR CIVIL JUDGE AND JMFC, BELTHANGADY
D.K. DISMISSING THE PETITION FILED FOR SEEKING TO
GRANT PERMISSION TO SELL THE UNDIVIDED SHARE OF HER
MINOR SON IN THE PETITION SCHEDULE PROPERTY AND SUCH
OTHER RELIEFS.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:



CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE RAJESH RAI K

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE D K SINGH)

This appeal is filed by the petitioner in G & WC No. 82/2024 against the impugned order dated 19.02.2025 passed by the Prl. Senior Civil Judge & JMFC, Belthangady, D.K. District, whereby the petition filed under Section 7 of the Guardian and Wards Act, 1890, seeking permission in favour of the appellant to sell the undivided share of her minor son in a portion of the schedule property, was rejected by the Trial Court.

2. Briefly stated, the facts are that the appellant is the wife of one late Adam Beary and the mother of Mohammad Irfan and Mohammad Irshad. Prior to his death on 30.06.2013, Adam Beary had acquired 1.50 cents of land in Sy. No. 109/11 of Malady Village, Belthangady Taluk (hereinafter referred to as the "schedule property"). Subsequently, the appellant acquired 9 cents of land in Sy. No. 93/4A of Parenki Village. Due to the untimely death of



her husband, the construction of a residential house on the said 9 cents of land has remained incomplete. Consequently, the family has been facing financial difficulties and there is no residential house available for the family to reside in. It is contended that the appellant has a 2/16th share in the schedule property, while her minor son and major son hold 7/16th share each. The major son, Mohammad Irfan, has discontinued his education and is unemployed. The appellant earns approximately Rs.3,000/- per month by rolling *beedis*. Owing to their limited means, the family is in need of funds to meet its basic requirements of food, shelter, and clothing. The minor son is studying in the 9th Standard and is the only hope and support for the appellant. In these circumstances, the appellant, being one of the legal heirs of late Adam Beary, entered into an agreement with one Sathish Prabhu for the sale of the schedule property. Therefore, the appellant filed G. & W.C. petition seeking permission to alienate the schedule property, including the undivided share of the minor son.



3. The Trial Court issued a paper publication, pursuant to which, no person appeared or filed any objections to the petition. The appellant examined herself as P.W.1, and documentary evidence at Exs.P.1 to P.12 was marked on her behalf.

4. After hearing the appellant, the Trial Court proceeded to pass the impugned order rejecting the petition. Aggrieved by the said order, the appellant has preferred the present appeal before this Court.

5. Heard learned counsel for the appellant and perused the materials on record.

6. The learned counsel for the appellant primarily contended that the appellant, being the mother of the minor son, has no adverse interest against her minor son, and that the minor's share is limited to $7/16^{\text{th}}$ undivided share in 1.50 cents of land, which is a small extent. It was further contended that the proposed sale would not, in any manner, prejudice the interest of the minor; rather, it would enable the appellant, who is a poor widow, to look after the welfare



of the minor in all aspects of life. Further, the appellant and her elder son have agreed to sell their respective 2/16th and 7/16th undivided shares in the subject land. As such, he prays that the appeal be allowed.

7. A perusal of the material on record and the genealogy tree produced by the appellant depicts that the appellant is the wife of late Adam Beary and the mother of Mohammad Irfan and Mohammad Irshad. It is further asserted in the evidence of P.W.1 that the share of the minor son is 7/16th in the schedule land. In such circumstances, we are of the considered view that the prayer of the appellant can be granted by safeguarding the interest of the minor, by directing the appellant to deposit the sale proceeds pertaining to the minor's share in a Nationalized Bank by way of a fixed deposit till he attains the age of majority. Accordingly, we proceed to pass the following:

ORDER

- i) The appeal is hereby partly allowed.



- ii) The impugned order dated 19.02.2025 passed in G & WC No.82/2024 passed by the Prl. Senior Civil Judge & JMFC, Belthangady, D.K. District is set aside.
- iii) The appellant is permitted to sell the 7/16th share of the minor son along with the appellant's and her elder son's share in the schedule property measuring 1.50 cents of land in Sy. No. 109/11 of Malady Village, Belthangady Taluk, subject to the condition that the appellant shall deposit the sale proceeds of minor son's share in a Fixed Deposit in any Nationalized Bank till he attains the age of majority.

SD/-
(D K SINGH)
JUDGE

SD/-
(RAJESH RAI K)
JUDGE