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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CM(M) 295/2016

GURVINDER KAUR & ORS

..... Petitioners

Through : Mr. Jawahar Chawla, Adv. with
petitioner no.1 in person.

versus

THE STATE & ANR

..... Respondents

Through : Ms. Prabhsahay Kaur, Adv. for R-1.
Mr. Amit Goel, Adv. for R-2 with
respondent no.2 in person.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **12.05.2016**

Petitioners are daughter-in-law and grand children of Late Smt. Mohinder Kaur. Late Smt. Mohinder Kaur was the owner of the property bearing no.WZ-1075, Rani Bagh, Delhi. During her lifetime, Late Smt. Mohinder Kaur sold her 50% undivided share in the aforesaid property to her son namely Late Shri Gurpreet Singh (husband of petitioner no.1 & father of petitioner nos.2 & 3), vide a registered sale deed dated 19th December, 2006.

After the death of Late Shri Gurpreet Singh, petitioner no.1 filed a petition under section 10 of the Guardians and Wards Act, 1890 before the Guardian Judge (North West), Rohini, Delhi being GP No.27/2013 for her

appointment as a guardian of petitioner nos.2 & 3 and also seeking permission to sell their shares in the undivided share of Late Shri Gurpreet Singh. Vide order dated 11th September, 2014, petitioner was appointed guardian of petitioner nos.2 & 3 and permission was also granted for sale of their share in the property.

Subsequently, Smt. Mohinder Kaur died on 5th February, 2015. Petitioners again approached the Guardian Judge for the same reliefs, which were sought by them after the death of Shri Gurpreet Singh but in respect of their share which devolved on them after the death of Smt. Mohinder Kaur. This petition has been dismissed by the Learned Guardian Judge on the ground that in view of the permission granted vide order dated 18th January, 2016 in the earlier petition, second petition was not maintainable.

In my view, learned Trial Court has not correctly appreciated the facts. In the earlier petition, 50% undivided share of Late Shri Gurpreet Singh, which devolved on the petitioner nos.2 & 3, was involved and petition was filed seeking permission to sell that portion only. Upon death of Smt. Mohinder Kaur, her 50% share in the property devolved to the petitioner nos.2 & 3 along with respondent no.2 and petitioner no.1. Thus, petitioners rightly approached the Guardian Judge for fresh permission in

respect of 50% undivided share of Late Smt. Mohinder Kaur in the property.

Learned counsel for the respondent no.2 submits that respondent no.2 has no objection, in case such permission is granted to petitioners as respondent no.2 is not interested to take any share in the property and is ready to release her share in favour of the petitioners. In para 4 of the affidavit, respondent no.4 has deposed that she has relinquished her share in the aforesaid property in favour of her Bhabhi, that is, petitioner Smt. Gurvinder Kaur and minor children Harmanpreet and Parampreet and she will not claim the same at any point of time in future.

Accordingly, impugned order is modified. As regards appointment of petitioner no.1 as guardian of petitioner nos.2 & 3 is concerned, earlier order will hold good. Petitioner no.1 is granted permission to sell the respective shares of petitioner nos.2 & 3, as their guardian, in the 50% undivided share of Late Smt. Mohinder Kaur in the property bearing no. WZ-1075, Rani Bagh, Delhi

Writ petition is disposed of in the above terms.

A.K. PATHAK, J.

MAY 12, 2016/dk