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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10733 OF 2022

Navnath Hanumant Ghogare and Ors.

.. Petitioners

Versus

The State of Maharashtra

.. Respondent

-
- Ms. Gauri Velankar i/by Mr. Sarang S. Aradhye, Advocates for Petitioner.
 - Mr. Sachin H. Kankal, AGP for Respondent – State.

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CORAM : MILIND N. JADHAV, J.

DATE : JUNE 18, 2025.

P.C.:

1. Heard Ms. Velankar , learned Advocate for Petitioner and Mr. Kankal, learned AGP for Respondent – State.

2. The present Writ Petition challenges the judgment and order dated 15.09.2021 passed by District Judge -1 Pandharpur in Civil Miscellaneous Application No. 111 of 2010, whereby the Application filed by Petitioners under Section 8(2) of the Hindu Minority and Guardianship Act,1956 (for short '**the said Act**') seeking permission to transfer by Sale an immovable property of minor children – Vaibhav and Sangram, came to be rejected.

3. Petitioners approached District Judge – 1, Pandharpur under Section 8 of the said Act, seeking permission for sale of agricultural land bearing Gat No.216(1)(b) - admeasuring 20 R and Gat No.2016(2)(b)(2) - admeasuring 35 R, both situated at village Adhiv,

Taluka - Pandharpur, District – Solapur standing jointly in the name of both minor children. Petitioner No.1 is the Uncle, Petitioner Nos. 2 and 3 are parents of minor children. It is the contention of Petitioners that Vaibhav studying in 5th standard and Sangram studying in 3rd standard in Zilla Parishad School at Adhiv does not have upto the mark standard of education. Hence they are desirous to admit minor children to a school in the city for better education. Also the said land parcels being low quality agricultural land and negligible income generated from them, Petitioners are unable to meet education expenses of children. On 03.01.2021 Petitioners issued a Public Notification thereby inviting objections, however no objections were received. On 09.03.2021 Petitioners approached the Office of Sub-Registrar, Pandharpur for the purpose of ascertaining the Valuation of the aforesaid agricultural land parcels and as per Valuation Report the valuation is to the tune of Rs.4,70,000/-. However, District Judge-1 rejected the said Application under Section 8(2) of the said Act stating that Petitioners were unable to prove the evident advantage to minor children by sale of agricultural land parcels.

4. Hence, the present Writ Petition.

5. Ms. Velankar, learned Advocate for Petitioner would submit that District Judge – 1, Pandhrpur has erred in rejecting Application filed under Section 8(2) of the said Act without considering that the

Sale of agricultural lands are for the evident advantage and welfare of the minor children.

5.1. She would submit that agricultural lands are of poor quality and yields negligible income, thereby rendering it unproductive and not beneficial to minor children. On the contrary, sale of agricultural land parcels would help secure better education facilities for minor children.

5.2. She would submit that Petitioners have complied with all procedural formalities under the law, including issuing Public Notice on 03.01.2021 inviting objections to the sale. She would submit that no objections were received. She would submit that Petitioners approached the Office of Sub-Registrar, Pandharpur to ascertain the value of the land that is determined at Rs.4,70,000/- by Valuation Report dated 09.03.2021 appended at page Nos.71 and 73 of the Petition.

5.3. With regard to Petitioner No.1, she would submit that originally the 20 R of agricultural land parcel was owned by one Mr. Tanaji Mahadev Chavan and 35 R of agricultural land parcel was owned by one Mr. Bharat Yallapa Shinde who further sold it to Petitioner Nos.2 and 3 however Petitioner No.1 financially supported them in purchase of the said lands. She would submit as father of minor children had personal loans and due to the apprehension of him

disposing it off to settle those loans hence it was decided to purchase the land parcels in name of minor children and adding Petitioner No.1 as 'care of' for minor children in land revenue records.

5.4. She would submit that Petitioners are willing to deposit the sale proceeds in Fixed Deposit which shall be exclusively utilized for their educational needs. She would submit that entire Sale shall be conducted under the supervision of any Officer appointed by the Court and the entire Sale proceeds shall be invested by the Petitioners in manner suggested by the Court. In view of the above, learned Advocate for Petitioners would urge the Court to set aside the impugned order and allow the present Writ Petition.

6. *PER CONTRA*, Mr. Kankal, learned AGP for Respondent State would submit that the District Judge – 1, Pandharpur rightly rejected the Application as Petitioners failed to demonstrate any 'evident advantage' to minor children from the proposed sale, as mandated under Section 8(2) of the said Act. He would contend that agricultural land parcels are equipped with borewells and has cultivation potential and could generate income if utilised properly. He would submit that education up to 10th standard is free in Government schools and Petitioners have not considered alternative means such as scholarships or relocation within the rural area, making the sale of minor children immovable property unnecessary.

7. I have considered the submissions made by Ms. Velankar, learned Advocate for Petitioners and Mr. Kankal, learned AGP for Respondent - State and perused the record of the case. Submissions made by them have received due consideration of the Court.

8. Perusal of record shows that Petitioner No.1 – uncle of minor children financially supported Petitioner Nos.2 and 3 in purchasing 20 R and 35 R of agricultural lands in name of minor children. Consequently his name was added as ‘care of’ in the land revenue records. It is pertinent to note that being a ‘care of’ does not confer ownership or legal guardianship rights of the minor children. In light of aforesaid factual background, it would be necessary to delve into scheme of Act. The Hindu Minority and Guardianship Act has been passed to amend and codify law relating to minority and Guardianship amongst the Hindus as can be observed from Section 2 of the said Act. Its provisions are in-addition to and not in derogation of Guardian and Wards Act, 1890. Section 6 of the said Act deals with natural Guardian of Hindu minor and his property. Section 6 of the said Act clearly stipulates that in the case of a minor boy or an unmarried girl, the natural guardian is the father, and after him, the mother. In the present case, Petitioners Nos.2 and 3 are parents of minor children and thereby natural guardians under the statutory framework. The mere mention of Petitioner No.1 as ‘care of’ in the

land revenue records does not vest any legal right of ownership or guardianship in him. Such an entry is merely indicative of correspondence or facilitation and does not dilute the statutory rights of the parents as natural guardians.

9. While Section 8 of the said Act governs the powers of a natural guardian in respect of a minor's property. Sub-section (2) thereof requires prior permission of the Court for transferring any part of the minor's immovable property. Petitioners, having approached the competent Court in accordance with law and having filed supporting affidavit appended at page No.92 and having complied with the procedural safeguards contemplated under the provision.

10. In the present case, it is seen that the sale of the said agricultural lands is not being proposed for extraneous purposes or self-gain but to secure a better standard of education for the minor children. Petitioners have placed on record valuation report dated 09.03.2021 showing the fair market value of the properties, and have also issued a public notice inviting objections, to which no objections were received. These facts reflect transparency in the process and genuine intent behind the proposed transaction.

11. While learned AGP has argued and contended that agricultural lands with borewells can be made productive, such argument remains speculative in the absence of any material on record

indicating actual agricultural income or productivity of the said lands. As against this Petitioners have demonstrated that the land yields negligible income and is incapable of meeting even the basic educational expenses of the minor children.

12. This Court is therefore of the considered view that the rejection of the Application by District Judge-1 was based on a technical ground, disregarding the broader welfare of the minor children. Petitioner Nos.2 and 3 being natural guardians have sufficiently established that the proposed sale is in the best interest of minor children and this squarely falls within the expression “for the evident advantage of the minor” as contemplated under Section 8(2) of the said Act.

13. Petitioner No.1 has filed Affidavit dated 17.06.2025 today stating that the Petitioners shall invest 80% of the sale proceeds amount received in Fixed Deposit in the name of the two minor children until they attain majority and balance 20% of the amount shall be utilized for their development and upbringing. There is no reason to disbelieve the same and therefore allow the Petition.

14. The impugned judgment and order dated 15.09.2021 passed by the District Judge – 1, Pandharpur in Civil Miscellaneous Application No.111 of 2010 is hereby quashed and set aside. Application filed by the Petitioners under Section 8(2) of the said Act

is hereby allowed.

15. Permission is granted to Petitioners of the minor children Vaibhav and Sangram to sell the agricultural lands standing in the name of the said minor children i.e. Gat No.216(1)(b), admeasuring 20 R and (ii) Gat No. 216(2)(b)(2) admeasuring 35 R, both situated at Village Adhiv, Taluka Pandharpur, District Solapur.

16. It is directed by the Court that the sale consideration shall not be less than Rs.4,70,000/- as per the Valuation Report dated 09.03.2021 obtained from the Office of Sub-Registrar, Pandharpur.

17. It is directed that 80% of the sale proceeds shall be deposited in the names of two minor children in two separate fixed deposit accounts in a Nationalised Bank in their names until they attain majority and the balance 20% shall be used for their welfare and expenses by the Petitioners until they attain majority.

18. Petitioners shall file an appropriate compliance report before the concerned District Court within a period of two months after the date of execution of the sale deed and receiving the sale proceeds, enclosing proof of fixed deposit.

19. Writ Petition is allowed and disposed in the above terms.

[MILIND N. JADHAV, J.]

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by AJAY
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Date: 2023.06.18
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