



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

APPEAL AGAINST ORDER NO.2 OF 2025

- 1) Bhupesh Chandrashekhar Dixit
Aged about 50 yrs, Occ- Business
- 2) Ku. Mugdha Bhupesh Dixit
Aged about 16 yrs, Occ- Student
Appellant no.2 Ku. Mughda being minor
acting through her natural guardian i.e.
Appellant no.1 the father.
Both R/o Near Lendra Park,
Old Radaspeth, Nagpur-4400010. **APPELLANTS**

...VERSUS...

M/s S. D. Creations,
Through its Partner
Shri Pahilaj Jaggumal Sacchani,
Shop No.1, Mudliar Chamber,
Nagpur- 440012. **RESPONDENT**

Mr. Shridhar V. Purohit, Advocate for Appellants.
Mr. A. N. Rangari, Advocate for Respondent.

CORAM: **ANIL L. PANSARE, J.**
DATE: **11th MARCH, 2025.**

ORAL JUDGMENT:

1. Heard.
2. **Admit.** Mr. A. N. Rangari, learned counsel waives service of notice for the respondent. With consent of learned counsels for the parties, the appeal is taken up for final hearing.

3. Having heard both sides, the only question that requires answer is whether the appellants/original applicants were under obligation to seek permission of the Court before selling property of appellant no.2 (the minor daughter of appellant no.1) in terms of the provisions of Hindu Minority and Guardianship Act, 1956.

4. Admittedly, the property under question is owned by the jointly family consisting of 19 members, appellant no.2 minor is one of them. In other words the property under question is a joint family property and the appellant no.2 has undivided interest in the said property. The counsel for appellant has invited my attention to the judgment of the Hon'ble Supreme Court in the case of *Sri Narayan Bal and others v. Sridhar Sutar and others (1996) 8 SCC 54*. The question that fell for consideration was whether the provisions of Section 8 of Hindu Minority and Guardianship Act, 1956 is applicable regarding Hindu family property sold or disposed of by the *Karta*. The Hon'ble Supreme Court considered the relevant provisions of the Hindu Minority and Guardianship Act, 1956 and held that the joint Hindu family by itself is a legal entity capable of acting through its *Karta* and other adult members of the family in management of the joint

Hindu family property. The Court further held that Section 8, in view of the express terms of Sections 6 and 12, would not be applicable where a joint Hindu Family property is sold/disposed of by the *Karta* involving an undivided interest of the minor in the said joint Hindu family property.

5. Thus, in the present case, where the appellant no.2 minor is having undivided interest in the joint Hindu family property, the permission under Section 8 of the Act of 1956 would be not required. In fact, the Court below has also observed that such permission will be not required. However, it got persuaded by the age of the minor. The Court found that the appellant no.2 will become major in thirteen months and therefore, the appellant no.1 should wait for said duration.

6. To my mind, once the Court found that permission under Section 8 of the Act of 1956 would be not required to sell the undivided share of appellant no.2 in the joint family property, there was no reason why the Court below rejected the application seeking permission to sell the said property. As such, the permission itself was not required, however, since the purchaser in the agreement to sale entered into between the parties desired to have permission of the Court before purchasing the property of a minor, the aforesaid application was made. To my mind, the trial

court ought to have allowed the application, having found that permission under Section 8 of the Act of 1956 was sought to safeguard the further contingencies. The appellants, therefore, have made out a case. Hence, following order:

ORDER

The appeal is allowed. The impugned order dated 05.10.2024 passed by District Judge-3, Nagpur is quashed and set aside. Misc. Civil Application No.917/2023 is allowed as prayed for. The appeal is disposed of in the above terms.

(ANIL L. PANSARE, J.)