

2025:PHHC:012238-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO-6018-2024 (O&M)
Date of decision: 27.01.2025

Charanjit Kaur

.....Appellant

Versus

General Public

.....Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present: Mr. Amandeep Singh Rai, Advocate,
for the appellant.

SUDHIR SINGH, J.

CM-22971-CII-2024

For the reasons mentioned in the application, same is allowed and delay of 95 days in filing the present appeal is condoned.

FAO-6018-2024 (O&M)

Present appeal is directed against the judgment dated 29.05.2024 passed by the learned Additional Civil Judge (Sr. Division), Jagraon (for short 'the trial Court'), whereby the petition under Section 8(II) of the Hindu Minority and Guardianship Act, 1956 (for short 'the Act') filed by the appellant for permission to sell the share of the minors, namely, Gurveer Singh and Manveer Singh, as detailed in the head note of the petition, was dismissed.

2. The aforesaid petition had been filed by the appellant being the grandmother; natural guardian and the

next friend of the minors, *inter alia*, pleading that she had been watching the interest of the minors. It was further the case of the appellant that Harpreet Singh, father of the minors, obtained divorce from his wife (Pawandeep Kaur) vide decree dated 11.09.2017 and subsequent thereafter, said Harpreet Singh passed away on 10.03.2022 and that since then, the minors had been in her custody. Said Harpreet Singh was recorded owner in possession of the ancestral property and after his death, mutation of inheritance had been sanctioned and entered in favour of the appellant. Both the minors are owners to the extent of 1/3rd share of the said property. It was further pointed out that the minors, aged about 17 years and 14 years respectively, are school going children and a considerable amount is required for their education and other necessities. It was yet further the case of the appellant that she had no source of income and as such, she wanted to sell the share of the minor children for their welfare and benefit.

3. Upon notice, none had appeared on behalf of the respondent i.e. General Public and accordingly, the said respondent was proceeded against *ex-parte* vide order dated 23.10.2023.

4. In her *ex-parte* evidence, appellant herself appeared as PW-1 and examined Balbir Singh as PW-2, besides tendering documents Ex.P1 to Ex.P7 and Mark-A.

5. Learned trial Court, after taking into consideration the rival contentions and evidence on record, has dismissed the petition filed by the appellant, as noticed above.

6. Learned counsel for the appellant has vehemently argued that the minor children are of the growing age and the funds are required not only for their education, but for other basic necessities, but the said vital aspect has totally been ignored by the learned trial Court. Still further, it is argued that while deciding the issue of welfare and interests of the minor(s), the Courts are required to take a pragmatic approach not to dismiss the case on mere technicalities. Still further, the learned counsel for the appellant argues that there was no representation on behalf of the General Public and as such, there being no objection and no counter to the averments contained in the petition filed by appellant, the approach of the learned trial Court is totally perverse. Still further, it is argued that the appellant is a grandmother of the minors and being an old and aged lady without there being any source of income, it has become very difficult for her to maintain the minor children and to meet the expenditure on their education and other necessities of life. Accordingly, a prayer has been made for setting aside the impugned judgment passed by the learned trial Court.

7. We have heard learned counsel for the appellant and have also gone through the impugned judgment.

8. The only issue that arises for consideration is,

whether the impugned judgment passed by the learned trial Court requires any interference.

9. A perusal of the impugned judgment shows that it was found by the learned trial Court that minor Gurveer Singh, whose date of birth is 06.08.2006, would become major after few months, whereas minor Manveer Singh, born on 09.11.2009, was aged about 14 years and he would attain majority after about 4 years. It was further found that the appellant had failed to prove on record that the land of the minors was not yielding any income and that the said land was not being cultivated. It was further observed that selling of the land of minors will affect their rights as rate of the property would be on increase with the passage of time. It was lastly, found that neither the appellant was able to prove the factum of welfare of the minors in selling the land nor she had brought on record the expenses of the minors, including the school expenditure.

10. The aforesaid finding of the learned trial Court does not seem to be suffering from any illegality. Though, there is no dispute as regards the minors being in the custody of the appellant, yet the fact remains that the onus was upon her to prove that sale of the land belonging to the minors, was for their welfare. In order to prove said requirement, the appellant was required to further prove that there was no source of income of her own to maintain the minor children and meet their expenses. As has been observed by the learned trial

Court, the appellant had failed to adduce any evidence as regards the income from cultivation of the land belonging to the minor children. She had also failed to bring on record the school expenditure and other expenses of the children. In the absence of said evidence, the learned trial Court was justified in declining the relief sought for by the appellant.

11. We find that the impugned order passed by the learned trial Court is just and equitable. Learned counsel for the appellant could not show on record that there was no income from the agricultural land belonging to the minors and/or the income is as such that the appellant could not meet the said expenses. It could not be pointed out that any evidence has been misread or not taken into consideration. Thus, we find no illegality or irregularity in the findings recorded by the learned trial Court.

12. In view of the above, finding no merit in the present appeal, the same is hereby dismissed.

13. All pending applications (if any), shall also stand disposed of.

(SUDHIR SINGH)
JUDGE

(SUKHVINDER KAUR)
JUDGE

27.01.2025

Ajay Prasher

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No