

**IN THE COURT OF THE DISTRICT JUDGE, KHURDA
AT BHUBANESWAR.**

Gua.(P) No.89 of 2014.

Sri Shib Kalyan Badajena, aged about 15 years (minor), S/o. Sri Sripati Badajena, Rep. by :- Smt. Kamala Badajena, aged about 45 years, W/o. Sri Sripati Badajena, At - Plot No.1723, Near Forest Office, P.S./P.O. - Chandaka, Dist. - Khurda, Bhubaneswar.

... **Petitioner.**

-V e r s u s-

Sri Sripati Badajena, aged about 46 years, S/o. Nimai Charan Badajena, At - Plot No.1723, Near Forest Office, P.S./P.O. - Chandaka, Dist. - Khurda, Bhubaneswar.

... **Opp. Party.**

Counsel :

For petitioner -- Shri S.C. Das & Associates.

For opposite party -- Shri T.K. Bahubalendra & Associates.

Date of Arguments : 05.12.2014.

Date of Order : 17.12.2014.

No.14, Dated 17.12.2014.

O R D E R

This is an application under section 8 of the Hindu Minority and Guardianship Act, 1956 filed by the mother on behalf of her minor son, seeking permission of this Court for sale of the property described in the schedule appended to the

application.

2. It is averred in the petition that the property in question was purchased in the name of minor son Shib Kalyan Badajena being represented through his mother Smt. Kamala Badajena, the petitioner, from one Bilasini Behera, Prafulla Kumar Behera, Subasini Behera & Sarojini Behera vide Registered Sale Deed No.12565 dated 01.12.2008. After execution of the Sale Deed, the land was also mutated in the name of Shib Kalyan Badajena. The parents of said Shib Kalyan Badajena are said to be passing through serious financial crisis due to loss in business. It is stated that adequate funds are not available for school / college tuition fees of Shib Kalyan Badajena and his sister. As such, for the purpose of better education of Shib Kalyan Badajena and his sister, other related assistance and for the improvement of their standard of living, necessity has arisen for disposing of the above property. It is in this context that this petition has been filed for appointing the mother-guardian of Shib Kalyan Badajena to sell the property.

3. Notice having been issued to the Collector, Khurda, no objection has been received as yet.

4. The mother of Shib Kalyan Badajena has examined herself as P.W.1 in support of her prayer. In her evidence-in-

chief on affidavit, she has reiterated the facts averred in the petition. She has filed the Jamabandi Register and the Registered Sale Deed vide Exts.1 & 2 respectively. In cross-examination, she has stated that her husband has paid the consideration towards purchase of the property in question on behalf of their minor son Shib Kalyan Badajena.

5. O.P.W.1, who is the husband of P.W.1, stated that his business is under serious loss and is running under deficit for which he is facing hardship in providing the basic needs to his children and to overcome such difficulty, the property is required to be sold. In cross-examination, he has stated that his son is going to appear in Matriculation Examination and they need money for his higher education. As such, the evidence of O.P.W.1 shows that after Matriculation Examination, money is required for the higher education of his son.

6. It is the settled position of law that the Court while granting permission has to see that any kind of sale of the property belonging to a minor, the sale-proceeds thereof must be in the interest, welfare and for the benefit of such minor, which are of paramount consideration and not for the convenience or pleasure of the parents. The evidence of P.W.1 & O.P.W.1 reveals that the property in the name of their minor

son is required to be sold to meet the expenses towards his higher education, who is going to appear at the Matriculation Examination. Education is one of the welfare of the minor son. Moreover, notice issued to the Collector, Khurda has also not yielded any response. In such state of affair, I find no impediment in allowing the petition. Hence ordered:

O R D E R

The petition under section 8 of the Hindu Minority and Guardianship Act, 1956 is allowed on contest against the opposite party. Permission is accorded to Smt. Kamala Badajena W/o. Sri Sripati Badajena, At - Plot No.1723, Near Forest Office, P.O./P.S. - Chandaka, Dist. - Khurda for sale of the schedule property belonging to her minor son Shib Kalyan Badajena with the condition that the sale-proceeds thereof will be used for his future education, including hostel charges, if any, which is undoubtedly for the interest, welfare and benefit of said Shib Kalyan Badajena. No cost.

The application is accordingly disposed of.

**District Judge, Khurda
at Bhubaneswar.**

17.12.2014.

Dictated & corrected by me.

**District Judge, Khurda
at Bhubaneswar.
17.12.2014.**

List of witnesses examined for petitioner.

P.W.1 -- Smt. Kamala Badajena.

List of witnesses examined for opposite party.

O.P.W.1 -- Sripati Badajena.

List of documents admitted in evidence for petitioner.

Ext.1 -- Jamabandi Register &

Ext.2 -- Sale Deed.

List of documents admitted in evidence for opposite party.

Nil.

**District Judge, Khurda
at Bhubaneswar.
17.12.2014.**