

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

Gua.(P) No.169 of 2014.

1. Sayak Mazumdar, aged about 14 years, Son of Late Bijan Mazumdar, Represented through its Mother Guardian Alpana Majumdar, Wife of Late Bijan Mazumdar.
2. Alpana Majumdar, aged about 50 years, Wife of Late Bijan Mazumdar, Represented as Guardian of Minor Sayak Mazumdar, Resident of Plot No.64-B, Govt. Ice Factory Lane, Budheswari, P.S. - Laxmisagar, Bhubaneswar, Dist. - Khurda, Odisha, PIN - 751 006, Now known as Plot No.655/2793, Fishery Lane, P.S. - Laxmisagar, Bhubaneswar - 751 006, District - Khurda.

... **Petitioners.**

-Versus-

Samrat Mazumdar, aged about 22 years, Son of Late Bijan Mazumdar, Resident of Plot No.64-B, Govt. Ice Factory Lane, Budheswari, P.S. - Laxmisagar, Bhubaneswar, Dist. - Khurda, Odisha, PIN - 751 006, Now known as Plot No.655/2793, Fishery Lane, P.S.- Laxmisagar, Bhubaneswar - 751 006, District - Khurda.

... **Opp. Party.**

Counsel :

For petitioners -- Shri M. Dash & Associates.

For opposite party -- Shri S.K. Jena & Associates.

Date of Arguments : 19.12.2014.

Date of Order : 02.01.2015.

No.15, Dated 02.01.2015.

O R D E R

This is an application under section 8 of the Hindu Minority and Guardianship Act, 1956 filed by the mother (petitioner No.2) on behalf of her minor son (petitioner No.1), seeking permission of this Court to appoint her as the guardian of petitioner No.1 for disposal of the property described in the application by way of sale / mortgage / lease for the necessity and advantage of the minor.

2. It is averred in the petition that the father of petitioner No.1 had availed a cash credit loan of Rs.50,00,000/- from the State Bank of India for business purpose. After his death, the Bank has transferred the cash credit loan in the name of petitioner No.2 to the tune of Rs.10,00,000/-. Now, mother (petitioner No.2) and brother (opposite party) of petitioner No.1 are looking after the business and other affairs of Bijan Mazumdar. They intend to enhance the cash credit loan from Rs.10,00,000/- to Rs.50,00,000/- for which the property in question, which is in the name of petitioner No.2 and her late husband, needs to be mortgaged. As petitioner No.1 is one of the legal heirs of his father Bijan Mazumdar, permission is necessary for sale / mortgage / lease of the immovable properties.

3. It is further averred in the petition that petitioner No.1 is a student of Class-IX in Delhi Public School, Kalinga in

the district of Cuttack, which is a very expensive school. For the education of petitioner No.1 and growth of business, prayer has been made to grant permission for disposal of the property, as aforesaid.

4. Filing a Memo, the opposite party has averred that he being one of the legal heirs of his father Bijan Mazumdar has no objection or shall have no claim in future if the present application is allowed.

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

6. Petitioner No.1 has examined herself as P.W.1 in support of her prayer. No witness has been examined from the side of opposite party. In her evidence-in-chief on affidavit, she has reiterated the facts averred in the petition. She has filed the Birth Certificate of petitioner No.1, Death Certificate of her husband Bijan Mazumdar, R.O.R. of the suit property and Legal Heir Certificate issued by the Tahasildar vide Exts.1 to 4 respectively. In cross-examination, she has stated that she is taking care of both of her sons i.e. petitioner No.1 and opposite party.

7. It is well settled 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. The evidence of P.W.1 reveals that the property jointly recorded in the name of petitioner No.2 and her husband Bijan Mazumdar is required to be sold to meet the expenses towards current and higher education of petitioner No.1. Education is one of the welfare of the minor son. The minor son petitioner No.1 being one of the legal heirs of his late father, seeking permission as per the prayer appears to be just and proper. The opposite party has also not raised any objection in the matter. 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. Alpana Majumdar (petitioner No.2) is appointed as guardian of her minor son Sayak Mazumdar (petitioner No.1) and permission is accorded to her for disposal of the share of petitioner No.1 over the schedule property by way of sale / mortgage with the condition that the money thereof will be used for his future education, including hostel charges, if any, which is undoubtedly for the interest, welfare and benefit of

the said petitioner No.1. No cost.

The application is accordingly disposed of.

**District Judge, Khurda
at Bhubaneswar.**

02.01.2015.

Dictated & corrected by me.

**District Judge, Khurda
at Bhubaneswar.**

02.01.2015.

List of witnesses examined for petitioners.

P.W.1 -- Alpana Majumdar.

List of documents admitted in evidence for petitioners.

Ext.1 -- Birth Certificate of Sayak Mazumdar,
Ext.2 -- Death Certificate of Bijan Mazumdar.,
Ext.3 -- R.O.R.,
Ext.4 -- Rent receipt, &
Ext.5 -- Legal Heir Certificate.

**District Judge, Khurda
at Bhubaneswar.**

02.01.2015.