

Shashi Goyal. v. General Public & others.

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**IN THE COURT OF GAGANDEEP MITTAL, CIVIL JUDGE
(SENIOR DIVISION), YAMUNA NAGAR AT JAGADHRI.
(UID No.HR0203)**

CNR No. : HRYN02-000124-2018.

CIS No. : GW/2/2018.

Guardian Case No.: 2.

Date of institution : 11-1-2018.

Date of Decision : 25-10-2018.

Shashi Goyal wife of Late Shri Rohit Goyal, aged about 36 years, being natural guardian of minors Purvi and Saksham, resident of house no.C/3/965, Bhalghran Mohalla, Kalu Manak Street, Jagadhri, District Yamuna Nagar (Haryana).

.....Petitioners

Versus

1. General Public.
2. Sheela Devi wife of Late Shri Nem Chand,
3. Rakesh Kumar Goyal,
4. Rahul Goyal, both sons Late Shri Nem Chand,
All residents of house no.C/3/965, Bhalghran Mohalla, Kalu Manak Street, Jagadhri, District Yamuna Nagar (Haryana).
5. Rekha wife of Late Shri Sushil Goyal, resident of house no.32, Sadanand Marg, Rishikesh (Uttarakhand).
6. Santosh wife of Ashok Kumar, resident of Singla Sweet House, Ramkundi Chowk, Ladwa, District Kurukshetra (Haryana).

.....Respondents

**Petition U/S 8 of Hindu Minority and
Guardianship Act.**

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Present: Shri Nikhil Gupta, Advocate for petitioners.
Shri Umesh Kumar Saini, Advocate for respondents no.2 to 6
Respondent no.1 already *ex parte*.

JUDGMENT:

This is a petition filed under section 8 of Hindu Minority and Guardianship Act for permission to sell the shares of minors Purvi (daughter) and Saksham (son) of petitioner in property measuring 139 Sq. Yards bearing property ID no.119C135U63, house no.C/3/965, Bhalghran Mohalla, Kalu Manak Street, Jagadhri, (hereinafter referred to as 'suit property').

2. Brief facts of the petition are that petitioner is the real mother and natural guardian of minors and the minors are living under the care and custody of the petitioner. She has no adverse interest against the interest of the minors. Rohit Goyal, husband of petitioner and father of minors expired on 3-12-2005 leaving behind the petitioner and his two children namely **Purvi and Saksham** being his legal heirs. She has further pleaded that respondent no.2 is mother in law of petitioner, respondents no.3 and 4 are brothers in law of petitioner and respondent no.5 and 6 are sisters in law of the petitioner and they are closely related to each other. It is further maintained that share of Rohit Goyal has been inherited by the petitioner and her children in equal shares. The minors are good and bright students and presently they are school going children and they have good prospects in education. The petitioner being widowed

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lady is facing difficulties to look after the suit property and she has no source of income to provide education in a good school/institution to the minors and petitioner has no other land or property to sell for arranging funds for the proper education of the minors. The sale of the shares of the minors in suit property is in the interest and benefit of the minors in all respects and the sale consideration will be utilized towards education and other necessities of the minors. With these averments, the present petition has been filed.

3. Notice of the petition was issued to the respondent no.1/general public through publication but none turned up despite publication and the respondent was proceeded against *ex parte* vide order dated 28-5-2018.

4. Upon notice, respondents no.2 to 6 appeared before court and through their counsel, respondents no.2 to 6 have got recorded their statement that they have no objection if the present petition is allowed as prayed for.

5. In her evidence, petitioner herself stepped into the witness box as PW1 and filed her duly sworn affidavit Ex.PW2/A reiterating the averments contained in the petition. She also proved following documents:-

Ex.P1	Attested copy of sale deed dated 25-4-1984
Ex.P2	Site plan of suit property

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Ex.P3	Assessment register 2017-18
Ex.P4	Attested copy of Aadhar card of Rohit Goyal
Ex.P5	Attested copy of Aadhar card of Shashi Goyal
Ex.P6	Attested copy of ration card of Rohit Goyal
Ex.P7	Attested copy of death certificate of Rohit Goyal

6. **Sanjay Vig** was examined as PW2, who tendered his affidavit Ex.PW2/A deposing that he is the neighbour of the petitioner and he knows the petitioner very well. He further deposed that after the death of Rohit Goyal, the petitioner is facing difficulty to look after her minor children. He further disclosed that he is interested in purchasing the shares of the minors in the suit property. He also prayed for allowing the present petition.

7. Thereafter, learned counsel for the petitioner has closed the evidence of the petitioner by making statement to this effect on 3-8-2018 and case was posted for evidence of the respondents.

8. No evidence was led by the respondents no.2 to 6 and accordingly, learned counsel for the respondents no.2 to 6 closed the evidence of the respondents no.2 to 6 by making a statement to this effect on 8-10-2018 and case has been fixed for rebuttal evidence.

9. No evidence was led by the petitioner in her rebuttal evidence and thereafter rebuttal evidence was closed on 25-10-2018.

10. Arguments of learned counsels for the parties have been heard.

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11. After having heard the submissions made by the counsels for the parties and having perused the record carefully, it transpires to this court that in the present petition, permission has been sought by the petitioner to sell the share of minors in the suit property. Now let us first examine as to whether minors are owners in possession of the suit property or not and what is their share?

12. As per petitioner, minors Purvi and Saksham are owners of suit property to the extent of their respective shares. The petitioner has relied upon copy of sale deed Ex.P1 which was in the name of Nem Chand, predecessor in interest of the deceased Rohit Goyal and respondents no.2 to 6 and after the death of Nem Chand, the same was inherited by petitioners, Rohit Goyal and respondents no.2 to 6 in equal shares. Petitioner has also placed on record copy of assessment register Ex.P3, which shows that Petitioner, Minors, deceased Rohit Goyal and respondents no.2 to 6 have been recorded as owners of the suit property. Accordingly, after the death of Rohit Goyal (death certificate Ex. P7), the same has now been inherited by petitioner and her minor children in equal shares. As such, it is established on record that minors are owners in possession of the suit property to the extent of their shares.

13. To prove the factum of minority of Purvi and Saksham, the petitioner has placed on record copy of ration card of petitioner Ex.P6. As per the said document, the petitioner is their mother and the children are

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minors. Thus, from the said document, the relationship between the parties has also been proved on record and further that the minors have still not attained the age of majority. Thus, minors Purvi and Saksham are evidently minors till date.

14. Respondents no.2 to 6 have admitted the claim of the petitioner in toto and suffered their statements that they have no objection if the petition of the petitioner is allowed.

15. In view of the aforesaid evidence, it is well established on record that the petitioner is the mother of minors. It is also evident on record that the petitioner has no adverse interest to the interest of the minors and she is properly looking after the interest of the minors and she wants the money for the education of the minors. Resultantly, on the basis of unrebutted evidence discussed above, the petition in hand **succeeds**. Hence, the same is hereby **allowed with no order** as to costs to the following effect:-

- (i) Petitioner is authorized to sell the share of the minors Purvi and Saksham in the suit property at a price not lower than the prevailing market price of the property to the vendee(s);
- (ii) Petitioner is directed to deposit the sale consideration, to be received by her after selling out the share of the minors in a nationalized bank in the name of the minors **Purvi and Saksham individually** under the scheme from which maximum interest may be fetched up and receipt thereof would be produced by the petitioner before the court within a period of one month from the date of sale of the property of the minors

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and the petitioner shall be entitled to withdraw the interest on regular intervals to use the same for the education and other necessities of minors and minors shall be entitled to withdraw the money on attaining their majority.

Pronounced: 25-10-2018.

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Note: This judgment contains **seven** pages and each page has been checked and signed by me.

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dinesh, stenographer Gr-II

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