

**IN THE COURT OF THE HON'BLE SENIOR CIVIL JUDGE, RANGA REDDY  
DISTRICT**

**AT: MEDCHAL**

**O.S. No. 535 of 2015**

**BETWEEN:**

B. Chakradhari

**Plaintiff**

**AND**

C. Shashir & Ors.

**Defendants**

**WRITTEN ARGUMENTS**

**FILED ON BEHALF OF THE DEFENDANT NOS. 1 & 2**

The instant suit has been filed by the Plaintiff, *inter alia*, seeking specific performance of the Exhibit-A1, a fraudulent Agreement of Sale in respect of the Suit Schedule Property, or in the alternative, relief in the form of Rs. 12,00,000/- as repayment of the alleged hand loan with interest thereon.

The said suit is coming up for final arguments, and in furtherance of the same, the present written arguments are being filed before this Hon'ble Court for its kind consideration:

1. For the purpose of brevity, the submissions advanced in the Written Statement of the Answering Defendants may be read as part and parcel of the instant written arguments.
2. **Pertinent Facts:**
  - a. The maternal grandfather of Defendant Nos. 1 and 2, Mr. Sreekakulam Radhaswamy, transferred the Suit Schedule Property to the Defendant Nos. 1 and 2 by way of registered gift deeds, bearing Nos. 7899 of 2005 (**Exhibit-A5**) and 7898 of 2005 (**Exhibit-A4**) respectively, dated 17.06.2005.
  - b. By virtue of the abovementioned gift deeds, i.e. Exhibits -A5 and -A4, Defendant Nos. 1 and 2 became absolute owners of the Suit Schedule Property.
  - c. The Plaintiff alleges that the Defendant No. 3 (mother of Defendant Nos. 1 and 2) availed a loan of Rs. 12,00,000/- (Rupees Twelve Lakhs Only) and that the said amount was paid by the Plaintiff vide cheque bearing No. 690492 dated 12.11.2010. The Plaintiff further alleges that the Defendant No. 3 executed an Agreement of Sale, dated

24.01.2015 (**Exhibit-A1**) in favor of the Plaintiff in lieu of the repayment of the aforementioned loan.

- d. It would be pertinent to note that the Defendant Nos. 1 and 2 were admittedly minors at the time of the execution of Exhibits -A5 and -A4 i.e. the gift deeds, and also at the time of execution of Exhibit-A1, i.e. the Agreement of Sale allegedly executed by Defendant No. 3 in favor of the Plaintiff. More pertinently, the Defendant Nos. 1 and 2 were undisputedly aged 14 years and 17 years at the time of the alleged execution of Exhibit-A1.
  - e. The alleged execution of Exhibit-A1, is denied by the Defendant Nos. 1 and 2 and the signature of the Defendant No. 3 signature was forged on Exhibit-A1, and therefore, should be deemed to be void ab initio.
3. The Answering Defendants are objecting to the relief of specific performance sought by the Plaintiff in respect of Exhibit-A1 on the following broad grounds:
- a. Exhibit-A1 is a fraudulent and fabricated document.
  - b. Exhibit-A1 is in contravention of Section 8 of the Hindu Minority and Guardianship Act, 1956 ("**Act**").
4. The following submissions are made in support of the aforementioned grounds of objections:
5. **The impugned Exhibit-A1 is a fraudulent and fabricated document:**
- a. It is respectfully submitted that Exhibit-A1, the impugned Agreement of Sale, is a false and fabricated document that was never executed by the Defendant No. 3.
  - b. The Plaintiff has approached the Hon'ble Court with unclean hands and by misrepresenting several facts and in view of such mala fide conduct, the Plaintiff is not entitled to the discretionary relief of specific performance as sought in the instant suit.
  - c. The Plaintiff and Mr. C. Rajesh, the father of the Defendants and one of the witnesses to the impugned Exhibit-A1, are close friends. It is submitted that Exhibit-A1 was fabricated by the Plaintiff and Mr. C. Rajesh in collusion with each other and by forging the signature of the Defendant No. 3 on the same. The same was done with a fraudulent intention to knock away the Suit Schedule Property belonging to the Answering Defendants.
  - d. It is pertinent to mention that the Plaintiff has admitted in his plaint at Paragraph III(1) and evidence affidavit as PW-1 at Paragraph 2 that Mr. C. Rajesh was known to the Plaintiff.

- e. It is submitted that in the Cross-Examination of PW-2, Mr. Sampath had deposed at Paragraph 2 of his deposition that the impugned Exhibit-A1 was allegedly signed by Defendant No. 3 in his presence at Defendant No. 3's house situated at East Marredpally, Secunderabad, and that he was allegedly a witness to the fraudulent Exhibit-A1. He further goes on to allege at Paragraph 5 of his deposition that the parents of Defendant No. 3 were also present when Exhibit-A1 was allegedly executed.
- f. However, it would be pertinent to refer to Paragraphs 7, 8 and 9 of the Chief Evidence Affidavit of DW-2, the mother of Defendant No. 3. She states that the house located in East Marredpally, Secunderabad is the house belonging to her and her husband, and that Defendant No. 3 never lived there after her marriage.
- g. DW-2 also states that on the date of alleged execution of Exhibit-A1, 24.01.2015, neither the Plaintiff, PW-2, Mr. C. Rajesh, or anyone else visited DW-2's house, and it is false that Exhibit-A1 was signed by the Defendant No. 3 there, in their presence.
- h. It is also stated by DW-2 that the Exhibit-A1 came as a surprise to her when Defendant No. 3 informed her that PW-2 alleged that the Exhibit-A1 was executed in her house and in her presence.
- i. In addition to the above, it would also be relevant to note that DW-1, the Defendant No. 3 herein, also states at Paragraph 11 of her Chief Evidence Affidavit that the house in East Marredpally belonged to her parents and that she had never lived there.
- j. It may also be highlighted at this stage that PW-2 was unable to identify the signature of the other witness, Mr. Venkat Ramana, to the impugned Exhibit-A1, during his cross-examination (*Refer Paragraph 2 of the Cross-Examination of PW-2*), and further, that PW-2's own signature differs on the fraudulent Exhibit-A1 when compared to his signature on his Chief-Examination filed by way of Affidavit (*Refer Paragraph 1 of the Cross-Examination of PW-2*).
- k. It must also be noted that Defendant No. 3's parents, who were allegedly present at the time of the execution of the impugned Exhibit-A1, were in fact involved in the real estate business and Defendant No. 3's father was instrumental in setting up various landmark residential communities in Andhra Pradesh and Telangana (*Refer Paragraph 2 of the Chief Evidence Affidavit of DW-2*).
- l. DW-2, in this regard, has stated at Paragraph 13 of her Chief Evidence Affidavit that her and her husband would never be a witness to a transaction such as the one contemplated in Exhibit-A1 considering their experience in the real estate industry and the fact that Exhibit-A1

was prejudicial to the interest of her grandchildren i.e. Defendant Nos. 1 and 2.

- m. It is further relevant to note that the Plaintiff has produced the original link documents i.e., pertaining to the Suit Schedule Property (Exhibits A4 and A5) to the Court at the time of filing this suit, but Clause 6 of the fabricated Exhibit-A1 notes that the original link documents pertaining to the Suit Schedule Property would only be provided to the Plaintiff on the day of registration. Given that no document has been registered till date, an adverse inference may be drawn against the Plaintiff and Mr. C. Rajesh, who would have had access to the documents, and it is respectfully submitted that the Plaintiff has colluded with Mr. C. Rajesh to obtain the original link documents (Exhibits-A4 and A5) without the knowledge or consent of the Defendants herein.
- n. In any case, without prejudice to the submission that Exhibit-A1 is forged and fabricated, it is most humbly submitted that there was no benefit to the Defendant Nos. 1 and 2 arising out of the impugned Exhibit-A1. The alleged loan given by the Plaintiff is denied and false, as Defendant No. 3 has always been financially secure and never in need of money or receiving loans. She has been receiving sufficient rental income since 2005 and possessed an independent source of income, and in any case would have sought financial help from her father if any state of necessity arose. Defendant No. 3 has always provided the Answering Defendants herein with a good lifestyle, good education, and upbringing, even sending them to study in the United Kingdom with only her own funds.
- o. In this regard, it would be pertinent to refer to Paragraph 20 of the Chief Evidence Affidavit of DW-1 i.e. the Defendant No. 3 wherein she categorically states that she was never in need of any money and her father, i.e. the grandfather of Defendants 1 and 2 supported the Defendant No. 3 financially at all points. DW-2 also states the same in her Chief Evidence Affidavit at Paragraph 7. Considering the above, it is quite clear that the Plaintiff's allegations that the Defendant No. 3 approached the Plaintiff for loan and the Plaintiff advanced the said loan and that the Suit Schedule Property was offered for sale in lieu of repayment of the said loan is purely fictitious and false.
- p. Therefore, it is respectfully submitted that the impugned Exhibit-A1 is a product of forgery and should be declared void. In any case, there was no necessity or benefit accruing to the Answering Defendants vide the impugned Exhibit-A1 since the Defendant No. 3 has always been self-sufficient and capable of earning income to support her family without needing loans. A necessary consequence to the above is that the Defendant No. 3 could not have obtained permission of the Court for executing a sale deed in respect of the Suit Schedule Property in pursuance to the impugned Exhibit-A1.

- q. In fact, it would be pertinent to refer to the inconsistencies in the averments of the Plaintiff at Paragraph III(2) of the plaint, Paragraph 4 of the Plaintiff's evidence affidavit as PW-1 and the contents of the legal notice, dated 04.07.2015 i.e. Exhibit-A2. At Paragraph III(2) of the plaint and Paragraph 4 of the Plaintiff's evidence affidavit as PW-1, the Plaintiff asserts that the Defendant No. 3 had been allegedly "*telling lies with regard to obtention of permission from the Court of law.*", however, Exhibit-A2 does not make even a single whisper about the Defendant No. 3 being required to obtain permission from the Court of law.
- r. On account of the above, it is most respectfully submitted that Exhibit-A1 is a bogus, false, fabricated and fraudulent document and the Defendant No. 3 never signed the same and Exhibit-A1 has been created by the Plaintiff, in collusion with Mr. C. Rajesh, to knock away the Suit Schedule Property belonging to the Answering Defendants.

6. **Exhibit-A1 is in contravention of Section 8 of the Hindu Minority and Guardianship Act, 1956:**

- a. Without prejudice to the submission above that Exhibit-A1 is a fraudulent and fabricated document, it is respectfully submitted that Exhibit-A1 is void as it has been executed in violation of Section 8 of the Act.
- b. Firstly, the impugned Exhibit-A1 is not for the benefit of the Defendant Nos. 1 and 2, who were minors at the time of the alleged execution of Exhibit-A1 and there was no necessity to execute the impugned Exhibit-A1 and there was no evident advantage to the answering Defendants as required under Sections 8(1) and (4) of the Act.
- c. Secondly, without prejudice to the contention that Defendant No. 3 did not execute Exhibit-A1 and other contentions of the Answering Defendants, the Defendant No. 3 was not competent to execute Exhibit-A1 as Defendant No. 3 did not obtain the prior permission of the Court under Sections 8(2) & (6) of the Act.
- d. Lastly, without prejudice to the contentions of the Answering Defendants, and even if it is assumed, but not admitted, that Exhibit-A1 was executed by Defendant No. 3, the Defendant No. 3 was not a natural guardian of the Answering Defendants, as per Section 6(a) of the Act, due to the presence of the father, Mr. C. Rajesh, and as such execution of Exhibit-A1 by the Defendant No. 3, on behalf of the Answering Defendants, was void.

*The alleged execution of Exhibit-A1 was not for the benefit of Defendant Nos. 1 and 2 and there was no necessity for execution of Exhibit-A1:*

- e. The Act provides for the powers of the natural guardian. Section 8(4) of the Act requires that the disposal of any immovable property of a minor be effectuated only with the permission of the Court and such permission could be granted by the Court only if there is existence of a state of necessity or for an evident advantage to the minor. In other words, without proof of there being necessity or advantage to the minor, the Hon'ble Court shall not grant any permission to dispose of a minor's property.
- f. In the instant case, apart from a bare averment by the Plaintiff that the loan, which allegedly is the basis for Exhibit-A1, was allegedly availed by the Defendant No. 3 for urgent requirements of the family including the welfare of the Defendant Nos. 1 and 2, there is nothing placed on record by the Plaintiff to establish that Exhibit-A1 was for the benefit of Defendant Nos. 1 & 2 or for some legal necessity.
- g. The Hon'ble Supreme Court has held in ***Panni Lal v. Rajinder Singh, (1993) 4 SCC 38***, that there must exist "*reliable evidence on record to show that the alienation in dispute had been made for the legal necessity or for the benefit of the plaintiffs*". The Hon'ble Supreme Court in this regard noted that the bare words of the plaintiff are not sufficient to prove that there existed any benefit.
- h. On the contrary, the version of the Plaintiff, in his plaint and evidence and deposition and arguments, as to the purpose for allegedly lending to Defendant No 3 and execution of Exhibit-A1 is replete with contradictions. It is submitted that the Plaintiff has made contradicting averments and arguments and, in this regard, it would be pertinent to refer to the following:
  - i. The Plaintiff stated in his Plaint dated 13.08.2015 at Paragraph III(1) that the Defendant No. 3 approached the Plaintiff seeking a hand loan "*to meet financial requirements of the family including the welfare of the Defendant Nos. 1 and 2*".
  - ii. The fraudulent Exhibit-A1, does not deal with any benefit to Defendant Nos. 1 and 2, who were minor at that time or mention any legal necessity for sale of the Suit Schedule Property, more importantly, there is not a single whisper about the loan transaction that allegedly took place between the Plaintiff and the Defendant No. 3 for meeting urgent family requirements of the Defendant No. 3.
  - iii. Additionally, there is not a single clause in Exhibit-A1 that confers some benefit, in whatever form, to the Answering Defendants. Interestingly, Clause 5 of Exhibit-A1 requires that that the Defendants are required to indemnify the Plaintiff in case of any defect in title to the Suit Schedule Property.

- iv. Lastly, the impugned Exhibit-A1 does not discuss as to whether the remaining sale consideration of Rs. 3,00,000/- would be shared between the Defendant Nos. 1 and 2 and how it would be shared between them.
- v. Exhibit-A2 states that the loan was allegedly taken to meet “*urgent financial necessities*”. However, there is no elaboration on the underlying purpose of the alleged loan apart from the above-stated vague averment.
- vi. In the Plaintiff’s cross-examination as PW-1, he deposes that the loan was sought by the Defendant No. 3 “*citing educational needs of her children*”.
- vii. During the oral submissions put forth by the Learned Counsel for the Plaintiff on 12.09.2024, it was contended that the loan was given for the Defendant No. 3’s “*boutique business*”.

From an appreciation of the above, it is clear that Exhibit-A1 is not at all to the benefit of Defendant Nos. 1 and 2 who were minors at the time of the alleged execution of Exhibit-A1, and the Plaintiff, apart from making vague and evidently contradictory averments, has miserably failed to demonstrate the benefit that would accrue to the Answering Defendants due to Exhibit-A1 or a legal necessity for executing the Exhibit-A1.

- i. It is important to reiterate that Defendant No. 3 has always been financially secure and never in need of money or receiving loans and has been receiving sufficient rental income since 2005 and possesses an independent source of income, and was able to seek financial help from her father if any state of necessity arose. Defendant No. 3 has always provided the Answering Defendants herein with a good lifestyle, good education, and upbringing, even sending them to study in the United Kingdom with only her own funds (*Refer Paragraph 8.D. of the Written Statements of Defendant Nos. 1 and 2*). Defendant No. 3 is a fashion designer and able to make a living for herself from her profession, and her father being a reputed builder has always supported her financially (*Refer Paragraph 20 of the Chief Evidence Affidavit of DW-1/Defendant No. 3*) and therefore the question of Defendant No. 3 being in dire straits financially and being compelled to avail a loan from Plaintiff to meet the educational needs of her children, the Defendant Nos. 1 and 2, never arose.

*No prior permission of the Court was obtained before execution of Exhibit-A1:*

- j. Sections 8(2) and (6) of the Act requires that before any immovable property of a minor is disposed, the natural guardian shall first obtain the permission of the Court. Section 8(3) of the Act further provides that the any disposal of property in contravention to Section 8(2) of

the Act is voidable at the option of the minor. It is undisputed that Section 8 of the Act mandates a Court's prior permission being taken before dealing with the property of a minor in any manner by a natural guardian.

- k. Without prejudice to the contentions of the Answering Defendants and even if it is assumed that the impugned Exhibit-A1 was executed for the benefit of the Answering Defendants, it is most humbly submitted that the impugned Exhibit-A1 ought not to be enforced by this Hon'ble Court as the same was executed without obtaining the prior permission of the Court under Section 8(2) of the Act.
1. Reference in this regard may be made to the judgement of the Hon'ble Supreme Court in the case of **Saroj v. Sunder Singh & Ors. 2013 (15) SCC 727** wherein it was held as follows:

*"13. In the present case, though it is stated that the property has been sold for the proper benefit of the minors, their protection, education and marriage, there is nothing on record to suggest that previous permission of the court was obtained by the natural guardian before transfer by sale in question.*

**14. Where the father dies leaving behind only minor daughters and their mother as natural guardian, the share of the daughters becomes definite; the question of family partition retaining the character of joint Hindu family property does not exist. In the present case, after the death of the father, the property has been shared amongst each member of the family and recorded in the mutation register having 1/4<sup>th</sup> share each. In such circumstances, the provision of sub-section (3) of Section 8 shall be attracted as the mother sold the property without previous permission of the court. Hence, both the sale deeds executed by the second respondent in favour of the first respondent shall become voidable at the instance of the minor."**

- m. Reference may also be made to the judgement of the Hon'ble Supreme Court in the case of **Kallathil Sreedharan v. Komath Pandyala Prasanna, (1996) 6 SCC 218** which noted the mandatory requirement of obtaining prior permission before executing an agreement for sale concerning a minor's property by holding as follows:

*"6. Having regard to the respective contentions, the question that arises for consideration is whether the agreement dated 22-7-1982 for sale of the cinema theatre*



*is to be specifically enforced? When the special leave petitions were filed, the appellants had filed an affidavit stating that they are not claiming specific performance as regards half share of the second respondent-minor. **It would be obvious that since the mandatory requirement of sanction from the Court for alienating the property of the minor, as required under Section 8 of the Hindu Minority and Guardianship Act, had not been obtained, the contract of sale to the extent of the half share of the minor is void and does not bind the minor.***

- n. Lastly, reference may be made to the judgement of the Hon'ble Bombay High Court in the case of ***Bajabai v. Sunil, 2022 (2) Mh.L.J. 337*** wherein the Hon'ble Bombay High Court while dealing with the issue of whether specific performance can be granted in respect of an agreement for sale concerning a minor's property, *inter alia*, held that it is incumbent upon Courts to assess whether Section 8(2) of the Act has been complied with or not while adjudicating on suits for specific performance in respect of agreements for sale in respect of minor's properties.
- o. The above judgement of the Hon'ble Bombay High Court is also of relevance considering the argument advanced by the Counsel for the Plaintiff that the Answering Defendants have failed to challenge Exhibit-A1 within the prescribed limitation period of 3 (three) years. In this regard, reference may be made to para 19 of the said judgement wherein it was held that challenge to an agreement of sale dealing with minor's share can also be made by way of a written statement and not necessarily by filing a separate suit within the prescribed period of limitation. Para 19 reads as follows:

**"19. It is very well true that the minor defendant Nos. 3 to 6 have not filed the suit thereby challenging the agreement for sale. Their natural guardian-mother has confined herself in filing the written statement on her behalf on behalf of the minor children, in which she has agitated the grievance about not obtaining permission from the Court. So, the grievance which is not made by filing a suit within the prescribed period of limitation, can it be made by way of written statement? The answer will be in positive. It is for this reason that if the provisions of the Limitation Act are perused, we can find that it prescribes the period of limitation for filing the proceedings either suits, applications or appeals. So, if those proceedings are not taken within the prescribed period, the remedy is lost. It does not mean that the right is extinguished. It survives. The**

**Limitation Act does not prescribe the period of limitation for filing of written statement. It is governed as per Order VIII of Code of Civil Procedure i.e. procedural in nature.** This has precisely been held by the Hon'ble Supreme Court in the case of *Shirmant Shamrao Suryavanshi and another vs. Prahlad Bhairoba Suryavanshi (Dead) by L.Rs. and others.* (2002) 3 SCC 676.....

**20. In view of that, I hold that such grievance can be taken by way of written statement and not filing a suit challenging the agreement by the minors after attaining the majority, does not come in their way.**

- p. In the instant case, the Defendant No. 3 filed her written statement on 04.11.2015, on behalf of her then-minor children (Defendant Nos. 1 and 2) and at Paragraph 5 of her written statement, she raised the ground that prior permission of the Court is required to enter into an Agreement of Sale i.e. Exhibit-A1 herein. Therefore, the grievance has been raised in the form of a written statement by a natural guardian, Defendant No. 3, on behalf of her then-minor children, Defendant Nos. 1 and 2, and there is no bar of limitation since the written statement constitutes a sufficient challenge, and no separate suit for declaration is required to be filed by the Defendant Nos. 1 and 2. Be that as it may, it would be pertinent to note that this Hon'ble Court also permitted the Answering Defendants herein to file their Written Statement vide order, dated 05.11.2022 and the Answering Defendants have challenged Exhibit-A1 at Paragraphs 8(H) & (I) of their respective Written Statements and same is to constitute a challenge to Exhibit-A1 even if no suit has been filed by the Answering Defendants challenging the same.
- q. It is well established that the Act permits a minor to void any disposal of property carried out without the permission of the Court. The arguments advanced by the Counsel for the Plaintiff is that an Agreement of Sale does not constitute disposal of property or alienation but only a Sale Deed transferring title, and therefore prior permission of the Court was not required to be taken, cannot hold water for three reasons, as follows:
- i. First, in reference to the Hon'ble Supreme Court's ruling in ***Kallathil Sreedharan (supra)***, the facts were similar and related to specific performance sought for an agreement of sale, wherein the Hon'ble Court at paragraph 6 of its judgment held that the agreement of sale was void since the mandatory sanction of the Court had not been obtain prior to the execution of the same. It is therefore respectfully submitted that the prior permission of the Hon'ble Court is required not only for the execution of a sale deed, but also an agreement of sale.

- ii. Second, that the Exhibit-A1, even if it cannot be considered a disposal of property, is still a fraudulent and fabricated document that cannot be acted upon, being void ab initio, i.e. no sale deed may be executed even with the Hon'ble Court's permission since the Exhibit-A1 is void and unlawful.
- iii. Third, in any case, without prejudice to the submission that the Exhibit-A1 is a fraudulent document that is invalid and unlawful, that if the prior permission of the Court is required to execute any Sale Deed in pursuance to the Exhibit-A1, it is respectfully submitted that the stage for seeking permission of the Court has elapsed as the Defendant Nos. 1 and 2 have attained majority.

Defendant No. 3 was not competent to execute Exhibit-A1 on behalf of the Answering Defendants:

- r. Section 6(a) of the Act states as follows:

*“in the case of a boy or an unmarried girl—**the father, and after him, the mother**: provided that the custody of a minor who has not completed the age of five years shall ordinarily be with the mother”*

- s. Without prejudice to the contention of the Answering Defendants that Exhibit-A1 was a product of collusion and fraud played by the Plaintiff and Mr. C. Rajesh, and assuming that the Defendant No. 3 executed Exhibit-A1 as the natural guardian of the Answering Defendants, it is clear, from a bare perusal of Section 6(a) of the Act, that the Defendant No. 3 was not competent to act as natural guardian for the Answering Defendants considering that they were aged 14 years and 17 years at the time of the alleged execution of Exhibit-A1 on 24.01.2015 and the father of answering Defendants, Mr. C. Rajesh, was admittedly present and known to the Plaintiff as the father of the Answering Defendants. Reference in this regard is made to Paragraph III(1) of the Plaint and Paragraph 2 evidence affidavit as PW-1 wherein the Plaintiff states that he knew of “*the father of the Defendant Nos. 1 and 2*”. Furthermore, the Plaintiff in his cross-examination as PW-1 states at Paragraph 1 that the relationship between the Defendant No. 3 and Mr. C. Rajesh was “*cordial*” in 2010 and at Paragraph 3 the Plaintiff states that he did not know whether Mr. C. Rajesh and Defendant No. 3 were separated by January 2015.
- t. It has been contended by the Counsel for the Plaintiff that in view of (i) the execution of the Memorandum of Understanding (**MOU**) dated 24.06.2015, (ii) the issuance of a decree dated 24.06.2015 by the Hon'ble Family Court, Secunderabad in F.C.O.P. No. 261 of 2015 (Exhibit D3-1 and D3-2), (iii) the strained and separated relationship between Defendant No. 3 and Mr. C. Rajesh, and (iv) the

appointment/recognition of this Hon'ble Court of Defendant No. 3 being the natural guardian of the Answering Defendants at the time of institution of the suit, the Answering Defendants cannot now contend that Mr. C. Rajesh was the natural guardian at the time of execution of the Exhibit-A1. However, this argument is incorrect for the following reasons:

- i. Mr. C. Rajesh was admittedly present in the lives of the Answering Defendants, and more pertinently, at the time of alleged execution of the Exhibit-A1, where he has signed the same as a witness.
- ii. The MOU and decree of divorce were passed in June 2015, while the impugned Exhibit-A1 was allegedly executed in January 2015. Therefore, the contention of the Counsel for the Plaintiff that the Defendant No. 3 had become the natural guardian as a result of the divorce/separation is of no relevance. And in any case, it is admitted by the Plaintiff that the relationship between Defendant No. 3 and Mr. C. Rajesh was cordial in 2010 and that they were not aware of the separation of Mr. C. Rajesh and Defendant No. 3 as of 2015.
- iii. The appointment/recognition of Defendant No. 3 as natural guardian of Defendant Nos. 1 and 2 for the purpose of instituting this suit is of no relevance and does not come to the aid of the Plaintiff as the contention advanced by the Answering Defendants is that by virtue of Section 6(a) of the Act, the Defendant No. 3 was not capable of acting as the natural guardian of the Answering Defendants for executing Exhibit-A1.
- u. Additionally, the impugned Exhibit-A1 is also silent on the reasons why the Defendant No. 3, and not Mr. C. Rajesh, the father of the Answering Defendants, has executed the Exhibit-A1, as the natural guardian of the Answering Defendants. Additionally, there is no evidence led by the Plaintiff or PW-2 to suggest that the father of the Answering Defendants was living separately from the Defendant No. 3 and not taking any interest in the affairs or upbringing of the Answering Defendants.
- v. In support of the above, reliance is placed on the judgement of the Hon'ble Supreme Court in the case of **Panni Lal v. Rajinder Singh, (1993) 4 SCC 38** where it was, *inter-alia*, held as follows:

*“6. ..the position in Hindu law was that when the father was alive he was the natural guardian and it was only after him that the mother became the natural guardian. Where the father was alive but had fallen out with the mother of the minor child and was living separately for several years without taking any interest in the affairs of*

*the minor, who was in the keeping and care of the mother, it was held that, in the peculiar circumstances, the father should be treated as if non-existent and therefore, the mother could be considered as the natural guardian and therefore, the mother could be considered as the natural guardian of the minor's person as well as property, having power to bind the minor by dealing with her immovable property.*

**7. In the present case, there is no evidence to show that the father of the respondents was not taking any interest in their affairs or that they were in keeping and care of the mother to the exclusion of the father. In fact, his attestation of the sale deed shows that he was very much existent and in the picture. If he was, then the sale by the mother, notwithstanding the fact that the father attested it, cannot be held to be a sale by the father and natural guardian satisfying the requirements of Section 8.**

In light of the foregoing, it is humbly prayed that this Hon'ble Court may be pleased to dismiss O.S. No. 535 of 2015 and pass such other order(s) this Hon'ble Court may deem fit and proper in the circumstances, including orders as to costs.

Dated this 14<sup>th</sup> day of November 2024 at Hyderabad.

**Counsel for Defendant Nos. 1 & 2**