



FAMILY LAW

Minors' Rights Protected – Court Rules Suit Not Mandatory to Undo Guardian's Unauthorized Sale

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Introduction

In a significant ruling that reinforces the protective framework governing minors' property, the Supreme Court of India in *K.S. Shivappa v. Smt. K. Neelamma*^[1] clarified the scope of minors' rights to repudiate unauthorized transactions executed by their natural guardians. The Court held that a sale of a minor's immovable property made without prior permission of the court under Section 8(2) of the Hindu Minority and Guardianship Act, 1956 is not void but voidable at the instance of the minor. Importantly, such repudiation need not be through a formal suit it may be effectively exercised through clear and unequivocal conduct, such as the subsequent sale or transfer of the same property after attaining majority.

By recognizing repudiation through conduct as a valid legal mechanism, the judgment harmonizes statutory interpretation with equitable principles, ensuring that minors are not deprived of their rights merely due to procedural omissions. The decision marks a crucial precedent in Hindu law, balancing **substantive justice and procedural flexibility** in the protection of minors' property interests.

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Background of the Case

The dispute traces back to two adjoining plots of land Plot Nos. 56 and 57 originally owned by one Mahadevappa and later purchased by Rudrappa in the names of his three minor sons: Maharudrappa, Basavaraj, and Mungeshappa. Acting as the father and natural guardian, Rudrappa sold both plots through separate registered sale deeds in 1971 without obtaining the prior permission of the District Court, as mandated under Section 8(2) of the Hindu Minority and Guardianship Act, 1956.

Plot No. 56 was sold to S.I. Bidari, who further transferred it to Smt. B.T. Jayadevamma in 1983. Plot No. 57 was similarly sold to Krishnoji Rao, who in turn sold it to Smt. K. Neelamma in 1993. Upon attaining majority, the surviving sons of Rudrappa, along with their mother, sold both plots Nos. 56 and 57 to K.S. Shivappa in 1989, thereby repudiating their father's earlier unauthorized transfers.

While disputes arose over both plots, litigation concerning Plot No. 56 had already attained finality. The present case concerned Plot No. 57, claimed by Smt. Neelamma, who filed a suit seeking declaration of ownership, possession, and permanent injunction against K.S. Shivappa.

The Trial Court dismissed her claim, holding that Rudrappa's sale without court permission was voidable, and the minors had validly repudiated it by selling the property after attaining majority. However, the First Appellate Court reversed this finding, ruling that since the minors had not filed a separate suit to cancel the earlier sale deed, their subsequent sale was invalid. The High Court upheld the appellate decision, recognizing Smt. Neelamma as the lawful owner.

Aggrieved, K.S. Shivappa approached the Supreme Court of India, challenging the view that a minor's repudiation of an unauthorized transfer must necessarily be made through a formal suit and not by conduct.

Issues Before the Court

The principal issue before the Supreme Court was:

1. Whether minors, on attaining majority, must file a suit to set aside an unauthorized sale made by their guardian, or whether such a sale can be repudiated through their conduct within the limitation period.

2. A subsidiary issue also arose concerning proof of title and evidence, as the respondent, Smt. Neelamma, failed to personally testify in support of her ownership claim.

Court's Analysis and Legal Reasoning

The Supreme Court examined in detail the legal implications of Section 8(2) and 8(3) of the Hindu Minority and Guardianship Act, 1956. The Court reaffirmed that any alienation of a minor's immovable property by a natural guardian without the previous permission of the court is voidable, not void. Such a transaction, therefore, can be repudiated by the minor upon attaining majority, but the key question was how this repudiation must occur.

The Court clarified that the Act does not explicitly prescribe that a minor must file a civil suit to set aside the transaction. A sale can be repudiated **either expressly** through a legal action or **impliedly** by conduct that clearly conveys dissent such as executing a fresh sale deed, resisting possession by the transferee, or otherwise acting inconsistently with the earlier transfer.

To substantiate this interpretation, the Bench relied on authoritative legal commentaries and precedents including:

- Travelyan on Minors, which recognizes that a minor can repudiate a voidable transaction through any act or omission signifying intent, not necessarily through litigation;
- Mulla's Hindu Law, noting that voidable transactions may be treated as nullities without the intervention of a court;
- Judicial precedents such as Abdul Rahman v. Sukhdayal Singh^[2] (1905), G. Annamalai Pillai v. District Revenue Officer^[3] (1993), and Madhegowda v. Ankegowda^[4] (2002), which consistently acknowledge that repudiation by conduct is sufficient.

The Court further observed that once a voidable transaction is avoided by the minor, it becomes void ab initio, and any rights purportedly created under such transfer cease to exist retrospectively. Thus, the avoidance relates back to the date of the original transaction, as supported by Salmond on Jurisprudence.

Application to the Present Case

Applying these principles, the Court found that:

- The sale deeds executed by Rudrappa, as natural guardian, without court permission were voidable.
- The surviving minors, on attaining majority, repudiated their father's unauthorized sale by executing a new sale deed in favour of K.S. Shivappa within the prescribed limitation period.
- The earlier purchasers, including Smt. Neelamma, never took possession, and the minors' names continued in the revenue records, reinforcing the inference that the earlier sales had been effectively repudiated.

Additionally, the Court held that Smt. Neelamma had failed to prove her title. She neither entered the witness box nor established the validity of her vendor's title. Her power-of-attorney holder's testimony was held inadmissible on matters within her personal knowledge, reaffirming the principle laid down in Janki Vashdeo Bhojwani v. IndusInd Bank Ltd.^[5] (2005).

Order Passed

The Supreme Court:

- Set aside the judgments of the High Court and First Appellate Court.
- Restored the Trial Court's decree dismissing Smt. Neelamma's suit.
- Held that K.S. Shivappa's title was valid and lawful.
- Declined to award costs.

Legal Significance

The Supreme Court's ruling in K.S. Shivappa v. Smt. K. Neelamma provides a vital clarification on the legal treatment of minors' property under Section 8 of the Hindu Minority and Guardianship Act, 1956. The Court held that a minor, on attaining majority, need not necessarily file a suit to set aside an unauthorized sale made by a guardian; such repudiation can be validly exercised through clear and unequivocal conduct, such as executing a new sale or asserting ownership.

This interpretation ensures that minors' rights are not lost due to procedural technicalities, recognizing that formal litigation may not always be practical or necessary. The decision also reaffirms the distinction between void and voidable transactions as a guardian's unauthorized sale is not void per se but becomes void once repudiated by the minor.

By emphasizing the need for due diligence in property transactions and upholding strict standards of proof and evidence, the Court strengthens both substantive justice and transactional integrity. The judgment thus stands as a significant precedent safeguarding minors' property rights while promoting fairness and clarity in property law.

Author's View

The ruling strikes a pragmatic balance between legal formality and equitable justice. By recognizing repudiation through conduct, the Supreme Court has prevented technicalities from overriding minors' substantive rights. It is also a cautionary precedent for purchasers to exercise **due diligence** before acquiring property previously owned by minors.

For more details, write to us at: contact@indialaw.in

[1] 2025 INSC 1195
[2] 1905 SCC OnLine All 106
[3] 1984 SCC OnLine Mad 185
[4] (2002) 1 SCC 178
[5] (2005) 2 SCC 217

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