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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
GUARDIANSHIP PETITION NO. 9 OF 2016**

Shantabai Raghunath Yeshwante

...Petitioner

Versus

Shobha Kailash Yeshwante, Shobha Anand Wagh
& Ors.

...Respondents

Mr. Vasant V. Surve, *for the Petitioner.*

CORAM: G.S. PATEL, J
DATED: 10th August 2016

PC:-

1. This is a Petition under the Guardians & Wards Act, 1890 for the appointment of the Petitioner as a guardian of her two minor grandchildren, Akshay, born on 21st June 1998, and Aakanksha, born on 3rd October 2001.

2. The facts underlying this application are somewhat strange. The Petitioner had a son named Kailash Raghunath Yeshwante. He was married to Shobha Anand Wagh, the 1st Respondent. They had a daughter, Pooja, the 2nd Respondent. It seems that at some point Kailash and Shobha separated. Shobha issued a notice dated 3rd April 1996. That was published in a local newspaper in Marathi in Malegaon on 4th April 1996 claiming a customary divorce. At that time, Kailash was living in Mumbai. It seems, however, that Kailash

accepted this and on 8th November 1996, he published his own version in another Marathi newspaper, the Manmad Bulletin in Manmad, *inter alia* confirming that at the 1st Respondent's (Shobha's) request, he was given her a divorce.

3. Kailash then married one Savita Murlidhar Dive on 25th May 1997. They had two children, the minors in question, Akshay and Aakanksha. Kailash died on 23rd May 2002, before Aakanksha was even an year old. Savita herself died on 13th October 2005. Both minors are being looked after by the Petitioner, their grandmother, who has obviously seen much more than most in her lifetime: she saw her son's first marriage break up; she saw her first grandchild Pooja, leave and be with her mother; she then lost both her son and her second daughter-in-law when her two other grandchildren were very young.

4. The Petitioner is compelled to file this Petition because it seems that Shobha moved the Civil Judge, Manmad and obtain a Succession Certificate suppressing all mention of her own case of a customary divorce. The Petitioner had to move that Court to revoke that Succession Certificate, which she successfully did.

5. The reason for all of this is that at the time of his death Kailash was employed with Western Railway, Jagjivan Ram Hospital, Mumbai Central, Mumbai 400 008. It is accepted that Kailash's three children, namely, the Respondent Pooja, and the two minors, Akshay and Aakanksha, are each entitled to a 1/3rd share in Kailash's dues, employment benefits and other benefits.

6. The Petitioner says that there is no one to look after these two minor children and that she alone has looked after them for all these years. Akshay is about 16 years old and is studying in the tenth standard and Aakanksha is about 13 years old and is in the seventh standard.

7. I am satisfied that the interest of the Petitioner is not adverse to that of the minors. It seems to me necessary that an order be made in these terms.

8. Notice under Section 11 of the Guardians & Wards Act, 1890 is dispensed with.

9. The Petition is made absolute in terms of prayer clause (a), which reads thus:

“(a) That the Petitioner viz. Shantabai Raghunath Yeshwante the grand-mother of the minors be appointed as a Guardian ad-litem of the persons and property of the minors viz. (1) Akshay Kailash Yeshwante, and (2) Aakanksha Kailash Yeshwante, respectively;”

10. All concerned to act on an authenticated copy of this order.

(G. S. PATEL, J.)