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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
GUARDIANSHIP PETITION (L) NO. 45 OF 2016**

Mr. Shaikh Mohammed Akbar Abdulla

...Petitioner

Mr. Ramdas Hake Patil, *for the Petitioner.*

CORAM: G.S. PATEL, J
DATED: 27th April 2016

PC:-

1. This is a Petition under Guardians and Wards Act, 1890. One Mohammed Altaf Abdulla Shaikh (“**Mohammed Altaf**”) and one Mehrunisa were married on 6th July 2007 in Mumbai. They had a son, Mohammed Hasan, born on 9th August 2008 in Abu Dhabi, UAE. His birth certificate is annexed.
2. Since 2006, Mohammed Altaf worked in a Company in Abu Dhabi, UAE. After marriage, he sought a visa for Mehrunisa and both parties then shifted to Abu Dhabi, UAE.
3. It seems that both Mohammed Altaf and Mehrunisa were killed in a road accident on 28th May 2010 in Abu Dhabi. Both died on the spot. The necessary death certificates are annexed.

4. While working in Abu Dhabi, Mohammed Altaf had purchased a flat in Mumbai being Room No. 42, 3rd Floor, Agoshe Aman Cooperative Housing Society, 208, Nishanpada Road, Near Dawood Fazal School, Mumbai – 400 009. A copy of the agreement dated 9th October 2009 is at Exhibit “E” to the Petition.

5. The minor Mohammed Hasan thus has succeeded to his father’s interest or, at any rate, would have an interest in part of the said property.

6. It is stated in the Petition that this is the only property left by the father of the minor. Since his parents’ death, the minor Mohammed Hasan first resided with his paternal uncle Mr. Mohammed Akbar Abdulla Shaikh, i.e., Mohammed Altaf’s brother and his paternal grandmother at another address in Karim Mistry Building, Tanantanpura Street, Mumbai 400 009.

7. The Petitioner, the paternal uncle of the minor, states that the minor is attached to him and is residing with him now in Muscat. He desires to keep the minor overseas with him to Muscat, where the Petitioner works and where he can better provide for the minor’s education. The Petitioner points out that in Mumbai there are only two sets of grandparents who are of advanced years and cannot be expected to take on the responsibility of look after a growing male child. The minor is in fact already studying in Muscat, Oman at an Indian School. Report cards evidencing this are annexed. The Petitioner confirms that he has no interest adverse to that of the

minor and that he stands and wishes to stand in place and stead of the minor's natural parents.

8. The parents of Mohammed Altaf and the parents of Mehrunisa have granted their no objection by means of an Affidavit which is at Exhibit "F" to this Petition.

9. Having regard to the situation, I am inclined to grant the Petition with one additional safeguard. The Petition is made absolute in terms of prayer clauses (a) to (d), which read as follows:

- "(a) that the Notice under Section 11 of the Guardian and Wards Act VIII of 1890, may be dispensed with;
- (b) that this Hon'ble Court may be pleased to appoint the Petitioner above named as the Guardian (without security and remuneration) of the above named Master Mohammed Hasan who was born on 9th August 2008 to Late Mr. Mohammed Altaf Abdulla Shaikh and Late Mrs. Mehrunisa Mohammed Altaf Shaikh;
- (c) that this Hon'ble Court may be pleased to appoint the Petitioner above named as the Guardian (without security and remuneration) of the property situate at 208, Nishanpada Road, Agoshe Aman Cooperative Housing Society, 3rd Floor, Room No. 42, Near Dawood Fazal School, Mumbai - 400 009 of Master Mohammed Hasan left by his father Late Mr. Mohammed Altaf Abdulla Shaikh & Late Mrs. Mehrunisa Mohammed Altaf Shaikh;

- (d) that the Petitioner may be granted leave to apply to this Hon'ble Court as and when there may be occasion to arise;"

10. It is further clarified that should the Petitioner seek at any time to alienate the minor's interest in property, including the said flat, he will need to do so by a separate Petition obtaining leave of this Court. The present order is not to be construed or interpret as granting the Petitioner leave to alienate the minor's interest in any immovable property.

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

(G. S. PATEL, J.)