SHEPHALI

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
GUARDIANSHIP PETITION NO. 25 OF 2016

Dr. Narayan Khandelwal ...Petitioner
And
Master Laksh S/o. Narayan Khandelwal ...Minor

Mr. Sunil Patel, *i/b Sunil & Co., for the Petitioner.*

CORAM: G.S. PATEL, J
DATED: 2nd December 2016

PC:-

1. The Petition is for leave to alienate an immovable property, being Flat No. 1404, 14th Floor, "B" Wing, Building No. D-8, Raheja Reflections, Survey No. 148 (Part), Revenue Village Magathana, CTS No. 168, Borivali (East), Mumbai. The Petitioner is the father of the minor, Laksh Narayank Khandelwal, born on 28th June 2000 and therefore today just over 16 years old.

2. The flat in question was purchased under an agreement dated 21st January 2013 in the names of one Dr. Narayan M. Khandelwal, one Mrs. Shantabai Maneklal Khandelwal, and the minor. The first two are said to have represented the Maneklal Khandelwal HUF. The purchase price was Rs. 1,14,63,535/-. The minor thus has an undivided one-third share, right, title and interest in this flat. The other two co-owners have negotiated with Mr. Rajendra Kumar for sale of this flat for an aggregate consideration of Rs. 2,10,00,000/-, about Rs. 1 crore more than the purchase price. The share of the minor would be Rs. 70 lakhs. This price and consideration is at or about the market value prevailing in the area.

3. I am satisfied that the sale of this flat is for the benefit of the minor, is reasonable and is based on legal necessity at least to the extent of it being advantageous to the minor's long term interests. The minor lives with his father at another address at 1210, I-B, Samartha Angan CHSL, Oshiwara, Andheri (West), Mumbai 400 053 and does not need the Borivali flat for his residence. I am also satisfied that the interest of the Petitioner is not adverse to that of the minor.

4. Prayer clause (a) of the Petition seeks a declaration that the Petitioner is the Natural Guardian of the minor. No such declaration is necessary because the Petitioner is the father of the minor and is his natural guardian in law.

5. The Petition is made absolute in terms of prayer clauses (b) and (c). The minor's share is to be segregated and separately invested in a safe security or instrument at the best possible rate of return. At the option of the Petitioner, this may be with any bank, mutual/income/debt fund or tax-efficient government bonds, but not in the form of a corporate deposit.

6. The receipt or record of the investment will be deposited with the Prothonotary & Senior Master and the minor will be entitled to apply for return of that receipt upon attaining the age of 18 years. The Petitioner's undertaking not to apply for withdrawal or premature release of that investment without leave of the Court is accepted as an undertaking to the Court.

(G. S. PATEL, J.)