

SHEPHALI

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
GUARDIANSHIP PETITION NO. 37 OF 2015**

Kamal Malcolm Mowdawala	...Petitioner
<i>And</i>	
Mathias Wadia-Hansen	...Minor

Mr. Sahil Sayyed, i/b Wadia Ghandy & Co., for the Petitioner.

**CORAM: G.S. PATEL, J
DATED: 8th June 2016**

PC:-

1. The minor was born in Denmark on 6th December 2004. His mother, a Parsi Zoroastrian married a Danish citizen. The minor is their son. They divorced in Denmark sometime in 2008, when the minor was four years old. The minor and his mother Dinaz return to India and lived in Pune. Dinaz died of cancer on 22nd July 2011. The minor was then six years. He has since then been living in Mumbai with the Petitioner, who is Dinaz's mother's brother's daughter, i.e., Dinaz's first cousin. The minor is now 10 years old. He attends the Singapore International School at Dahisar, Mumbai.

2. The minor's father died on 3rd October 2012. His death certificate is also annexed. The minor's mother, Dinaz has only one

sister, Shirin Navroz Lalkaka, who has consented to the appointment of the Petitioner as the minor's guardian.

3. It is manifestly in the interest of the male minor that the orders sought to be passed. Apart from anything else Dinaz has left a Will appointing the Petitioner as the sole executor. The Petitioner is to hold Dinaz's entire estate in trust for the sole use and benefit of the minor till he completes the age of 30 years. A probate Petition is pending. The minor is thus the only heir required to be cited in this probate Petition. Clearly, the Petitioner must be appointed a guardian in order to effectuate the terms of this Will. I notice that by previous orders, time was taken to obtain a translation of the death certificate, which is in Danish, and to place on record a decree of divorce. I am informed that the Danish Consulate has not agreed to provide this translation. I do not insist on it, nor on production of the divorce deed. I do not see how insisting on either of these documents can assist the minor or further his interest, or how the non-production of these documents is in any way material in such Petition.

4. The Petition is made absolute in terms of prayer clauses (a), (b) and (c), which read thus:

“(a) that this Hon'ble Court be pleased to dispense with Notice required to be given under Section 11 of the Guardians and Wards Act, 1890;

(b) that the Petitioner being the first cousin of the minor's mother (i.e. the minor's maternal grandmother's brother's daughter) and in whose

custody the minor has been ever since his mother died and who has been providing for the minor's maintenance, welfare and education, be appointed as guardian (without security and without remuneration) of the person and property of the minor the said Mathias Wadia-Hansen;

(c) that the Petitioner be authorized to consent on behalf of the minor to grant of Probate of the Will dated 21-7-2011 of the minor's mother the said Dinaz Wadia-Hansen on Testamentary Petition No. 1065 of 2015;"

(G. S. PATEL, J.)