

JSN

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
GUARDIANSHIP PETITION NO.38 OF 2015**

Smt. Jela Shitesh Jobanputra

...Petitioner

Mr. M.S. Lad, *for the Petitioner.*

CORAM: G.S. PATEL, J
DATED: 5th July 2016

PC:-

1. The Petitioner is the mother of a female minor, Deetya, born on 30th November 2006. The Petitioner's husband, Deetya's father, Shitesh, died in Kerala on 29th May 2008. He died intestate. His father predeceased him. During his lifetime, Shitesh owned shop No.4 in the Om Shivam Co-Op. Hsg. Society Ltd., Mulund (West), Mumbai 400 080. On his death, he was survived by the Petitioner, his widow; the minor, Deetya; and his mother, Lata. The shop premises were redeveloped. The Society and Developer allotted an new shop No.1 in lieu of old shop No.4. The necessary share certificate transfers were effected. The heirs are now the owners of the shop premises. Clearly, therefore, the minor has a undivided one-third share right, title and interest in that shop.

2. The application before me today is that the mother, the Petitioner, be appointed as guardian of the minor and further that

the Petitioner be allowed to give least the premises to Bank of India; to deposit one-third of the compensation received as the minor's share, and to allow it to be used for the minor's welfare and education. There is no alienation of the immovable property proposed. It is to be given on the lease.

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

(a) That the Notice under Section 11 of the Guardian and Wards Act may be dispensed with;

(b) That this Hon'ble Court be pleased to appoint the Petitioner as the Guardian of the minor without remuneration and with authority of the person and property of the above named minor;

(c) That this Hon'ble Court be pleased to allow the Petitioner to give on lease basis the said premises i.e. Shop No.1 (Old Shop No.4) Om Shivam Co-Op. Hsg., Society Ltd., Dr. R.P. Road, Mulund (West), Mumbai - 400 080 to the Bank of India and allow to collect rent / compensation from the Bank of India on behalf of the minor's share and allow to sue the said amount for minor's welfare and education.

4. The Petitioner will, till the minor attains majority, file and submit annual accounts of the utilisation of the minor's share of the said proceeds. These accounts are to be filed on Affidavit on or before end of the first week of December each year.

(G. S. PATEL, J.)