

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

GUARDIANSHIP PETITION NO.6 OF 2017

Harjinder Singh Trilok Singh SabharwalPetitioner

Vs.

Master Guniv Singh Harjinder SinghMinor

Mr. Navid Yunus Memono for petitioner.

CORAM : K.R.SHRIRAM, J.

DATE : 25th APRIL, 2017

P.C.:

1 Accepted. The petitioner is the father and natural guardian of the minor – Guniv Singh Harjinder, aged 10 years, who was born on 26th September, 2006. The petitioner's wife and the mother of the minor – Aparna Harjinder Singh Sabharwal expired on 8th July, 2016. The petitioner and his deceased wife had purchased an immovable property being flat no.2101, admeasuring 627 sq. ft. carpet area on the 21st floor in the building know as “Promenade 1” in the project called “The Address” situated at Ghatkopar (West), Mumbai – 400 086 (the said property). The petitioner and his deceased wife are the joint owners and entitled to the undivided 1/2 share in the said property. On the death of the wife, the undivided 1/2 share of the deceased wife is to be equally divided between the petitioner and the minor son under provisions of Section 15 read with Section 16 of the Hindu Succession Act, 1956.

2 The petitioner and the deceased wife had applied for a housing loan with Federal Bank, Manpada Branch and the Federal Bank had sanctioned the loan of Rs.1 crore against the mortgage of the said property. Copies of the letter creating equitable mortgage and notice of intimation of mortgage by deposit of title deeds are annexed to the petition. The petitioner intends to continue with the said loan. The Federal bank has advised the petitioner to obtain permission of this court to mortgage the undivided 1/4th share in the said property that belongs to the minor son. Hence the present petition.

3 In the petition at paragraph 10, the petitioner has made an averment that the minor being the only child of the petitioner, will be the beneficiary to the said property on attaining majority and/or after the death of the petitioner. The mortgage of the undivided 1/4th share of the minor in the said property is necessary as the petitioner undertakes to repay the mortgage to Federal bank. Certainly the property will be an asset and a beneficial investment for the minor. The petitioner also stated that the minor will be residing with the petitioner in the said property.

4 In the circumstances, I see no impediment for the grant of the relief sought in the petition. The petition is made absolute in terms of prayer clauses – (a) and (b) which read as under :

“(a) That the petitioner be appointed as the natural guardian

of the person and undivided 1/4th share, right, title and interest of the respondent in the immovable property, viz., Flat no.2101, admeasuring 627 sq. ft. carpet area on the 21st floor in the building know as “Promenade 1” in the project called “The Address” constructed on the portion of the property being CTS No.50, 50/1 to 50/7 and 50/35 to 50/44 admeasuring in aggregate about 71,145.50 sq. mtrs. situate at Revenue Village Vikhroli, Taluka Ghatkopar, Opp. R. City Mall, L.B.S. Marg, Ghatkopar (West), Mumbai – 400 086.

(b) That the petitioner as such natural guardian of the respondent be allowed to mortgage or charge the undivided 1/4th share, right, title and interest in the immovable property, viz., Flat no.2101, admeasuring 627 sq. ft. carpet area on the 21st floor in the building know as “Promenade 1” in the project called “The Address” constructed on the portion of the property being CTS No.50, 50/1 to 50/7 and 50/35 to 50/44 admeasuring in aggregate about 71,145.50 sq. mtrs. situate at Revenue Village Vikhroli, Taluka Ghatkopar, Opp. R. City Mall, L.B.S. Marg, Ghatkopar (West), Mumbai – 400 086 of the respondent and to execute mortgage deed or any other documents in favour of the Federal Bank or any financial institutions.”

5 Petition accordingly disposed.

(K.R. SHRIRAM, J.)