

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

MISC. PETITION NO. 17 OF 2016

Apurva Pravin Khatiwala	.. Petitioner
Vs.	
Kumari Harshi Apurva Khatiwala (Minor)	.. Respondent

Mr.Dinesh Shah a/w. Mr.Tejas Shah i/b Lilani Shah & Co. for petitioner.

**CORAM : K.R.SHRIRAM, J.
DATE : 18TH JANUARY, 2017**

P.C.

1 Admit.

2 The petition is filed for appointment of the petitioner as a guardian of minor-Harshi Apruva Khatiwala. The petitioner is the father and the natural guardian of the said minor. The mother of the minor-Trusha Apurva Khatiwala has filed an affidavit affirmed on 16th January 2017 according her 'no objection' for granting reliefs sought in the petition. Therefore, there is no impediment in taking up the petition for hearing and final disposal at this stage itself.

3 The petitioner is the son of Pravin Mohanlal Khatiwala (since deceased). The deceased and his wife-Anupama Pravin Khatiwala during the lifetime of the deceased had, vide an agreement dated 20th March 2012,

jointly acquired and purchased one office premises being office No.812, 8th floor, Topiwala Centre of S.V. Road, situated at off. S.V. Road, Goregaon (West), Mumbai 400 062 (the said premises). The deceased and his wife, both had equal undivided shares in the said premises. The deceased, who died on 18th July 2015, left behind his last Will dated 1st November 2014 which is duly registered and as per the Will, the deceased had appointed the petitioner and his wife-Trusha Apurva Khatiwala as joint executors of the Will to which the Probate is yet to be obtained. The only legal heirs of the deceased are his wife Smt. Anupama Pravin Khatiwala, the petitioner and the daughter Aparna Pravin Khatiwala. The legal heirs have accepted and acted upon the Will of the deceased. Since the deceased has bequeathed his undivided 50% shares in the said premises to the petitioner, petitioner's wife and the minor child who was born on 6th November 2012, the wife of the deceased Smt.Anupama Pravin Khatiwala gifted her shares of 50% in the said premises to the sister of the petitioner-Aparna Pravin Khatiwala vide registered Gift Deed dated 21st May 2015. It is stated that the petitioner, his wife-Trusha Apurva Khatiwala on one side and the petitioner's sister-Aparna Pravin Khatiwala have decided to dispose of the said premises for a consideration of Rs.70,00,000/- of which Rs.35,00,000/- will go to the petitioner's sister Aparna Pravin Khatiwala and the balance Rs.35,00,000/- will go equally to the petitioner, his wife and the minor child -Harshi

Apurva Khatiwala. The minor's share in the said Rs.35,00,000/- will work out to Rs.11,66,668/-.

4 The present petition has become necessary for obtaining sanction of this Court for effecting this sale on behalf the said minor. The petitioner has given an undertaking that the entire consideration which is the share of the minor of Rs.11,66,668/- will be invested in a fixed deposit with any bank in the name of the minor jointly with her mother-Trusha Apurva Khatiwala and will be renewed from time to time until the minor attains the age of majority.

5 In view of the consent affidavit filed by the minor's mother-Trusha Apurva Khatiwala and having considered the averments in the petition, I am inclined to grant the relief in terms of prayer clauses (a), (b), (c) and (d) which read as under :

(a) That this Hon'ble Court be pleased to declare that the petitioner, i.e., Apurva Pravin Khatiwala is the natural guardian of minor Kumari Harshi Apurva Khatiwala;

(b) That this Hon'ble Court be further pleased to declare that, as the natural guardian of the minor Kumar Harshi Apurva Khatiwala, the petitioner is entitled to effect sale of the undivided right, title, interest and share of the said minor in the property being Office No.812, admeasuring 400 sq.ft. (carpet area) on 8th floor, in the building Topiwala Centre situated at off. S.V. Road, Goregaon (W), Mumbai-400 062.;

(c) That this Hon'ble Court be pleased to grant sanction to the petitioner for effecting the sale and transfer of the 16.66% share of the said minor Kumari Harshi Apurva Khatiwala in the property being office no.812 on 8th floor of building Topiwala Centre to and in favour of the Heads N Mindss Consultants Pvt. Ltd. with power and authority to execute and registered agreements, deeds and papers etc. to and in favour of the said Heads N Mindss Consultants Pvt. Ltd.;

(d) That this Hon'ble Court be pleased to permit the petitioner, i.e., Apurva Pravin Khatiwala to deposit the minor shares of Rs.11,66,668/- (Rupees Eleven lakh sixty thousand six hundred sixty eight only) in Fixed Deposit with any bank in the name of said minor's name Harshi Apurva Khatiwala with her said mother Trusha Apurva Khatiwala till the petitioner acquired new residential premises jointly in the name of the petitioner, Trusha Apurva Khatiwala and the said minor Kumari Harishi Apurva Khatiwala.

7 The petitioner is also directed to file an affidavit giving status of the minor's shares of Rs.11,66,668/- on 2nd Monday of April every year beginning from 10th April 2017 until the minor-Harshi Apurva Khatiwala attains the age of majority.

8 The petition accordingly disposed. All Notices and Judges Order dispensed with.

9 All concerned to act on a copy of this order authenticated by the Associate of the Court.

(K.R. SHRIRAM, J.)