

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

GUARDIANSHIP PETITION NO.45 OF 2015

Sunita Shashtri Swamy)....Petitioner

Mr.Sunilkumar J.Kanoujia for the petitioner.

**CORAM : K.R.SHRIRAM,J
DATE : 24.1.2017**

P.C.:-

1 This Guardianship Petition is filed by the petitioner who is the cousin of the minor child master Sharat Kumar Shashidharan Nair. The petition has been filed for declaring the petitioner as guardian of 2 minors, one master Sachin Shashidharan Nair and master Sharat Kumar Shashindharan Nair. Master Sachin Shashidharan Nair was born on 15.5.1998 and since on 16.5.2016 has attained the age of majority, this court by order dated 5.7.2016 granted leave to the petitioner to amend the petition to strike off the name of Sachin Shashidharan Nair. This has been done.

2 The minors' father had passed away on 18.11.2006 and the mother's whereabouts was not known for more than 7 years. Therefore, the mother of the petitioner filed a suit before the City Civil Court at Mumbai and the City Civil Court by an order dated 12.8.2009 declared the mother of the minor Mrs.Ambali Sasidharan Nair as

dead. Copy of the death certificate of the father S Chandrashekhar Nair and the order dated 12.8.2009 are annexed to this petition.

3 The mother of the petitioner had filed Guardianship Petition No.59 of 2009 which came to be allowed by an order dated 13.1.2010 by this court. It is stated in the petition that the said Smt.Nalini Vijay Panicker who is the mother of the petitioner also expired on 11.10.2015 and the copy of the death certificate is also annexed to the petition.

4 It is stated that the minor is staying with the petitioner and the petitioner was also staying with her mother at the address mentioned in the petition even after her marriage. The petitioner states that the minors' father was declared eligible for room as permanent accommodation under Slum Rehabilitation (SRA) and in consequence thereto a room being room no.106, 1st floor, 'C' wing, Vikhroli Shivai SRA CHS Ltd., Hariyali Village, Vikhroli (East) Mumbai-400 083 was allotted. It is stated that the petitioner along with the minors and her family are residing in the said address. At the same time it should be noted that there is nothing on record to show that the petitioner has been residing at the said address with the minor. There is also nothing on record to show that the minor continued to reside at the said address with the petitioner. No school

record of the minor is also annexed to the petition though a statement is made that it is very difficult to look after and maintain the minors including to sign in schooling documents of the minor.

5 The petitioner is therefore, directed to file an affidavit with evidence to the effect that the petitioner and the minors are residing at the address mentioned in paragraph-7 of the petition, the school records of the minor and also of other son Sachin Shashidharan Nair. At this stage, the counsel states that the children are not studying.

 If that is the position then I see no reason why the petition should be allowed because the reason why according to the petitioner the relief as sought in the petition was necessary because after the demise of the mother of the petitioner who was earlier declared as guardian, the petitioner finds it very difficult to look after the minors including to sign in school documents of the minor as guardian of the minors. Since the children are not studying at all, the basis and foundation of the petition itself crumbles.

Petition therefore, dismissed.

(K.R.SHRIRAM,J)