

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
GUARDIANSHIP PETITION NO. 40 OF 2015**

Umesh Rajnath Sharma	...Petitioner
<i>Versus</i>	
Chanda Umesh Sharma	...Respondent

Mr Omprakash A Pandey, for the Petitioner.

**CORAM: G.S. PATEL, J
DATED: 1st October 2018**

PC:-

1. This is a contest between husband and wife, Umesh and Chanda. They have two sons. Ankush is the elder and Abhay is the younger. Ankush is in Court before me today. He lives with Umesh, the Petitioner-husband. He is about eight years old. The younger son, Abhay, is said to be with the Respondent, his mother, Chanda. The notice sent to her has been returned unserved.

2. The Petition seeks an order that the Petitioner-father should be appointed a guardian of both sons Ankush and Abhay. Prayer clause (c) is for a direction to forcibly hand over the custody of the second son, Abhay, to Umesh.

3. I am not prepared to make orders of forcible custody like this. A notice under Section 11 of the Guardians and Wards Act cannot be dispensed with. I will require a publication in regard to the second son, Abhay.

4. So far as Ankush is concerned, there is no difficulty in declaring the Petitioner as his guardian. In fact, the Petitioner is the father and one of the natural guardians of Ankush. Custody of Ankush is not to be taken from the Petitioner without a specific order of this Court obtained after at least four weeks' prior written notice to Mr. Pandey who is on record for the Petitioner.

5. So far as the second son, Abhay is concerned, nobody knows his address. The mother has not been served. I am not making an order of forcible guardianship or custody without first meeting the minor and satisfying myself that such an order should be made.

6. Therefore, as regards the prayer in respect of the second minor, Abhay, liberty to the Petitioner to apply. The Guardianship Petition is disposed of in these terms.

(G. S. PATEL, J)