

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

GUARDIANSHIP PETITION NO.7 OF 2018

Sagayamarie Francies Xavier & Anr.	)....Petitioners
V/s.	
Master Vikram Naveen Poojari	)....Minor

Mr.Brenda D'souza for petitioners.

CORAM : K.R.SHRIRAM,J
DATE : 17.1.2019

P.C.:-

1. Petitioners are seeking appointment of guardian of minor Vikram Naveen Poojari who was born on 12.10.2006. Petitioner no.1 is the sister of the maternal grand father of the minor. Mr.Amalnathan Masila Mani is 70 years of age and is unable to move on his own and his wife Victoria Silvia Amalnathan Masila Mani died sometime on or about 30.9.1995. The mother of the minor Juliet Navin Poojari expired on 11.8.2008. It is stated in the petition that the minor's father Naveen S.Poojari after the death of his wife, left the minor with a writing on a stamp paper of Rs.50 stating that his financial condition is very poor. He is unable to look after the son and he hands over his son to his father-in-law to permanently take care of the minor. Petitioners who are present in Court said that minor was left with this

writing with the sister of the deceased mother who left the child with petitioners. Petitioners state that since 2009 the minor was residing with petitioners and about 3 years ago, i.e., some time in March-2016 admitted the minor in 'Our Lady Home, Dadar, Mumbai'. Until the minor was sent to 'Our Lady Home, Dadar, Mumbai', minor was studying at Fatima Convent School, Dombivli (West). Petitioners state that their 3 sons were also studying in boarding and therefore, they admitted minor also to a boarding i.e., 'Our Lady Home', Dadar, Mumbai.

2. Petitioner no.2 states that he has retired from Railways and he has been taking care of all the needs of the minor. Petitioner no.2 states that when they wanted to open the bank account in the name of the minor, he was told that he should be first appointed as guardian of the minor and only then he will be allowed to open the bank account. Petitioners have 3 grownup sons, the youngest is 29 years of old and they have also filed an affidavit dated 10.8.2018 stating they have no objection if their parents are appointed as guardian of minor. The 2nd son of petitioner is present in Court and he informs the Court that he will be happy if parents look after the minor.

3. Registry has submitted a note dated 29.9.2018 raising various objections. The objections are (a) there is no prayer made in the petition seeking dispensation of notice under Section section 11 of Guardianship & Wards Act, 1890 ; (b) in the prayer it is not even specifically averred whether guardian seek to be appointed as guardian of the property or person of minor and (c) there are other objections raised which I feel have been dealt with in the petition itself.

4. It is true that in the prayer clauses, petitioners have not sought dispensation of notice under Section 11 of Guardianship & Wards Act, 1890 and prayer clauses do not specifically indicate whether petitioners' wish to be appointed as guardian of the person or property of the minor. Despite this, petitioners' Advocate has chosen not to amend the prayer clause. Nevertheless I am inclined to dispense with the Notice under Section 11 of the Guardianship & Wards Act, 1890.

5. As regards the 2nd objection, it is stated in prayer clause-(b) that there is no estate of the minor's parents. Therefore, the question of being appointed as guardian of the property of the minor does not arise.

6. In the circumstances, petitioners are appointed as guardian to look after the minor master Vikram without any remuneration and security. Petitioners as guardian can take charge of minor's education and further settlement. In short, petitioners can take all steps whatever is required in the interest and for the benefits in the name of the minor.

7. Petition accordingly disposed.

8. All to act on authenticated copy of this order.

(K.R.SHRIRAM,J)