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

MISCELLANEOUS PETITION NO.1 OF 2021

Abhiram Kastur Sheth
And Another … Petitioners

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Mr. Sharan Jagtiani, Senior Advocate a/w Mr. Sarosh Bharucha, Mr. Muttahar Khan, Mr. Kenneth Martin and Mr. Harsh Rathore i/b Advani & Co. for the Petitioners.

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CORAM : S.C. GUPTE, J.

DATE : 15 MARCH 2021

P.C. :

. Heard learned Counsel for the Petitioners. This petition has been filed under Section 8 of the Hindu Minority and Guardianship Act, 1956 ("Act") seeking permission under Section 8(2)(a) of that Act as also under the provisions of Guardians and Wards Act, 1890 for sale of undivided share, right, title and interest of two minors, both of whom are children of the Petitioners, in an immovable property described in prayer clause (a) of the petition. The property consists of a flat in a co-operative society, together with the related shares and car parking space. The Petitioners have an offer for sale of the flat together with shares and parking space and have entered into a Memorandum of Understanding with the purchaser. The Memorandum is placed before the court along with a valuation report. The Petitioners' case is that considering that the immovable property is not likely appreciate much in value over the next few years as compared to investment in mutual funds or other similar assets, it is in the interest of the minors to have the property sold and invest the sale proceeds appropriately so as to meet the needs of financing the education of the minors by creating an educational fund/reserve for the benefit of the minors. The Petitioners have produced along with the petition, a Chartered Accountant's report proposing investments of sale proceeds, including the nature of investments proposed, risk profiles and range of returns. The Petitioners, in the premises, pray for permission of this court for sale of the property.

2 After going through the averments in the petition together with the documents produced therewith, this court is of the view that the sale proposed appears to be in keeping with the market conditions and is for a competent price; even the investment of sale proceeds proposed by the Petitioners appears to be fair and reasonable and in keeping with the overall market situation. The Petitioners submit, through their Counsel, orally across the Bar that the sale proceeds shall stand invested and not be withdrawn by the Petitioners, except after seeking appropriate orders from this court when funds are needed for the purposes of the minors' education.

3 The foregoing narration makes it clear that the sale of the

property is necessary, reasonable and proper for the benefit of, and for better realization and protection of, the minor's estate and, in the premises, leave deserves to be granted under Section 8(2)(a) of the Act as well as under the relevant provisions of the Guardians and Wards Act, 1890.

4 The petition is, accordingly, allowed in terms of prayer clauses (a) and (b) thereof and subject to the statements of the Petitioners, which are recorded and accepted as above. The Petitioners, as natural guardians of the minors, are also permitted to execute the necessary documents for investment of the sale proceeds in terms of this order.

(S.C. GUPTE, J.)