

Santosh

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

GUARDIAN PETITION NO. 2 OF 2021

Rashmi Yatinkumar Doshi

...Petitioner

Bhavya Yatinkumar Doshi (Minor)

Mr. G. S. Bhat, a/w Pooja Bhat, for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATED : 26th FEBRUARY, 2021

PC:-

1. This petition is preferred seeking permission to appoint the petitioner Rashmi Yatinkumar Doshi, the mother of Master Bhavya (the minor), as a guardian for the purpose of alienating 1/3 undivided interest of the minor in the premises i.e. Flat No.403, admeasuring 998 sq. ft. in Sangeeta Enclave, Mulund, in favour of Mr. Bhavesh Mehta and Mrs. Heena Mehta so as to fiance the acquisition of another immovable property i.e. Flat no.101, Tiara Court, Mulund, in terms of the agreement dated 30th December, 2020.

2. The petition is supported by the affidavit of Mr. Yatinkumar Doshi, the husband of the petitioner, and the father of minor. It is averred that on account of the business

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commitments the father, Mr. Yatinkumar is not in a position to look after the affairs of the minor.

3. Flat no.403 Sangeeta Enclave was acquired by the petitioner, her husband Yatinkumar and the minor under agreement dated 5th August, 2005 for a consideration of Rs.25,84,450/-. The minor was born on 10th April, 2004. Evidently, the minor was then hardly one and a half year old. The petitioner claims that the said premises is not in a good condition. The society in which it is situated is not properly maintained. The petitioner and her husband have thus decided to purchase a big flat in a building Tiara Court, Mulund. The carpet area of new flat is 1543.67 sq.ft. plus an open balcony admeasuring 93.39 sq.ft.

4. To facilitate the acquisition of the new flat, the petitioner and her husband decided to sell the flat no.403, Sangeeta Enclave. They have negotiated for an optimum consideration. A Memorandum of Understanding dated 3rd February, 2021 is executed with the prospective purchasers Mr. Bhavesh Mehta and Mrs. Heena Bhavesh Mehta. The abovenamed purchasers have agreed to purchase the flat no.403, Sangeeta Enclave for a consideration of Rs.1,65,00,000/-.

5. The petitioner and her husband have also executed an agreement on 30th December, 2020, to purchase Flat no.101 for

the consideration of Rs.3 Crore. An amount of Rs.2,34,50,000/- has already been paid to the builder namely Tiara Signature Homes LLP., which comprises the amount of Rs.1,49,29,000/- received from the purchasers of flat no.403 Mr. Bhavesh Mehta and Mrs. Heena Mehta. The acquisition of Flat no.101 would be for the benefit of the minor. Hence this petition.

6. Mr. Yatinkumar Doshi has sworn an affidavit in support of the petition. The documents evidencing the payment of the amount of Rs.2,34,50,000/- to Tiara Signature Homes LLP are annexed to the said petition. Yatinkumar Doshi has affirmed that he has no objection to the appointment of the petitioner as a guardian of the minor for all purposes, including sale of Flat no.403, Sangeeta Enclave and acquisition of Flat no.101 Tiara Court.

7. Upon the perusal of the averments in the petition, documents annexed with it and the affidavit of Mr. Yatinkumar Doshi, it appears that the parents of minor Bhavya have entered into *bona fide* transactions for the purpose of the benefit of the estate of the minor. Evidently, Flat no.403, Sangeeta Enclave, was acquired when the minor was barely one and a half year old. Consideration had obviously flown from his parents. The said flat is stated to be not properly maintained. The new flat i.e. Flat no.101, Tiara Court, is located in a good area, and is

more spacious. Sale proceeds of Flat no.403 are being utilised for the acquisition of new flat. In the circumstances, there is no reason to question the *bona fide* of the petitioner.

8. Mr. Yatinkumar Doshi is present before the Court. He states that he has no objection to appoint Rashmi Doshi, the mother of the minor, as guardian for all purposes. In the aforesaid view of the matter, the petition deserves to be allowed. However, to take care of the interest of the minor, it is necessary to put certain conditions. Hence, the following order:

:ORDER:

The petition stands allowed in terms of prayer clauses (a), (b) and (c) subject to following conditions:

(i) The balance consideration to be received from Mr. Bhavesh Mehta and Mrs. Heena Mehta towards sale of Flat no.403, Sangeeta Enclave be paid to the vendors of Flat no.101, Tiara Court, through banking channels.

(ii) Flat no.101 Tiara Court be acquired in the joint name of the minor, Master Bhavya Yatinkumar Doshi, under a registered instrument.

[N. J. JAMADAR, J.]