

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

MISCELLANEOUS PETITION NO. 14 OF 2021

Vaishali Ravindra Salve ... Petitioner

and

Vivaan Ravindra Salve ... Minor

Mr. Prabhu Velar for the Petitioner.

CORAM : A. K. MENON, J.

DATED : 23rd NOVEMBER, 2021

P.C. :

1. This is a petition filed under the Guardians and Wards Act, 1890. The petitioner mother of the minor Vivaan Ravindra Salve seeks permission to dispose immovable property being Flat no. 103 admeasuring 795 sq. ft on 1st Floor, Saffire, Bhakti Park (Sector 2) Co-operative Housing Society Limited, Wadala (East), Mumbai-400 037 and the relevant shares held in the Society, more particularly described in prayer clause (b) which includes the share of the minor son of the petitioner.

2. The petition also seeks dispensing with notice under Section 31(4) of the Guardians and Wards Act, 1890 and direction to authorise the petitioner to execute the necessary documents to give effect to the sale. The application

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is made by the petitioner after the demise of her husband Ravindra Samuel Salve on 16th November, 2020. The petitioner's deceased husband was the purchaser along with her of the aforesaid flat which is now proposed to be sold. Under an Agreement for Sale dated 3rd April, 2002 by one Anik Developer Corporation sold the subject flat to the petitioner and her husband. The petitioner's husband having expired, it is her contention that the share to the extent of 16.66% undivided interest would fall to the minors entitlement and therefore permission is being sought to dispose the property and to deposit equivalent to 16.66% with the Accounts Officer of this Court.

3. The elder son of the petitioner Siddhant Ravindra Salve has already consented to the proposal to dispose the property in an affidavit of consent dated 13th October, 2021 as part of the petition..

4. On 16th November, 2021 the petitioner was directed to provide copies of the purchase agreement and valuation of the minor's share to be placed on record and the proposed purchasers willingness to deposit the minors shares in Court. Accordingly an additional affidavit dated 18th November, 2021 has been filed. The petitioner has set out the total consideration and the minor's share which is quantified at Rs. 18,83,333.33. The learned counsel for the petitioner. Mr. Velar has also relied upon an affidavit dated 18th November, 2021 filed by the proposed purchasers Poonam Vinod Khobragade and Vinod Ravindra Khobragade who have confirmed the willingness to purchase the flats and shares for a price of Rs.1,13,00,000/-. They have also expressed their

willingness to deposit in this Court with the Accounts Officer the share of the minor for Rs.18,83,333.33. However the purchasers have stated that they would deposit the amount within three weeks. This cannot be acceded to since consideration for purchase will have to be paid against execution of the agreement. This money would have to be deposited in this Court prior to agreement being registered. Accordingly, I pass the following order :

(i) The petition be allowed subject to the purchasers depositing in this Court with the Prothonotary and Senior Master a sum of Rs.18,83,333.33 within two weeks from today . The agreement as between the petitioner and the elder son Siddhant Ravindra Salve and on behalf of the minor shall be executed only against receipt of the sale consideration particularly by depositing of the aforesaid sum in this Court and balance to be paid over to the petitioner.

(ii) Notice under Section 31(4) is dispensed with and the petitioner is permitted to execute the necessary transfer forms with the society and the sale deed subject to receipt of consideration as above.

(iii) Upon deposit of the amount by the purchasers the Accounts Officer shall invest the same initially for a period of one year without premature withdrawal penalty and renew the same till the minor attains majority in accordance with law.

- (iv) The petition is disposed in the above terms.
- (v) Registry shall act on issuance of certified copy of this order. Certified copy is expedited.

(A. K. MENON, J.)