

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

**INTERIM APPLICATION NO. 4885 OF 2022
IN
MISCELLANEOUS PETITION NO. 2 OF 2021**

Vanraj Vinod Shah HUF

...Applicant

IN THE MATTER BETWEEN :

Shubhang Dilip Dhruv

...Petitioner

Versus

Master Hashutosh Shubhang Dhruv

...Respondent

- Mr. Rohan Sathaye, Mr. Rihal S. Kazi and Mr. Guru Shanmugam
i/by M & M Legal Ventures, for Applicant.

CORAM : MANISH PITALE, J

DATE : 16th FEBRUARY, 2023.

P. C. :

1. The present application is moved in peculiar circumstances on behalf of the Applicant. The facts leading up to filing of the present petition are that the Applicant agreed to enter into a transaction for purchase of an immovable property i.e. Flat No. G2, Ground Floor, A Wing, Devenda Sadan, CTS No. 174, Village Majas, R.R. Thakur Marg, Jogeshwari (E), admeasuring 489.80 sq.ft.. In the said property, 25% undivided share is held by a minor, Master Hashutosh Shubhang Dhruv and the balance 75% of the undivided share is jointly held by the parents of the minor child and other family members.

2. The Applicant has already purchased 75% of the share by executing registered Deed of Transfer and the question remains only about the balance 25%, in which the aforesaid minor has undivided share. In order to complete the transaction as per the agreement between the parties, the father of the minor had filed Miscellaneous Petition No. 02 of 2021, before this Court with a prayer for being appointed as the guardian of the minor, in respect of the aforesaid 25% undivided share in the property, in order to complete the conveyance in favour of the Applicant. The said petition was allowed by an order dated 18th June, 2021, passed by this Court. After taking into consideration the interest of the minor, this Court while disposing of the petition observed as follows :

“6. When the Court queried whether the sale is for the benefit of the minor, the learned counsel for the father informed the Court that the sale consideration of Rs. 25,00,000/- will be deposited in a Nationalized bank in the minor's name, represented of course, by the father. He also assures the Court that the amount will not be withdrawn for the next three years that is until the minor attains the majority. Thereafter, it is for him to use the fund whichever way he desires.

7. Under these circumstances, I allow this Miscellaneous Petition No. 2 of 2021, subject to these conditions :

(a) Acting as the guardian of the minor,
Shubhang Dilip Dhruv may convey the

property to the third party as per the pleadings.

- (b) The conveyance comes into effect from the date Petitioner deposits the sale consideration of Rs. 25,00,000/- in Mumbai District Central Co-operative Bank (as desired by the Petitioner himself) for 42 months.
- (c) The Petitioner as the guardian shall have no power to withdraw the amount or create any encumbrance on the deposit by way of loan until the date of deposit/s maturation.
- (d) Subject to these conditions, the Miscellaneous Petition stands allowed.”

3. It is the case of the Applicant that after the said order was passed and the petition was disposed of, efforts were made to contact the father of the minor, i.e. the Petitioner in the aforementioned petition to comply with the directions given in the said order and to execute the registered conveyance in respect of the balance 25% share in the said property, but there was no response from the father of the minor. Despite communications sent, including letters sent through e-mail, there was no response from the father of the minor, as a result of which the conveyance pertaining to the balance 25% share in the property could not be completed.

4. Upon the Applicant making inquiries, it was found that the father of the minor i.e. original Petitioner in the petition is not traceable and he no longer lives in his last known residential address.

5. When the application came up for consideration, this Court was of the opinion that it would be appropriate that the mother of the minor child is put to notice, before the application is taken up for consideration and disposal. Accordingly, the mother, Shweta Shubhang Dhruv, was added as party. She has been served, but there no appearance on her behalf.

6. In this backdrop, the learned Counsel appearing for the Applicant submits that the prayer made in the present application may be granted in the interest of justice. The applicant undertakes to abide by all the directions that this Court may issue in order to protect the interest of the minor, while allowing the present application.

7. This Court has considered the material on record. Despite the petition filed by the father of the minor being allowed, the conveyance pertaining to the balance 25% undivided share in the property could not be executed, due to the father of the minor i.e. original Petitioner failing to take necessary steps in the matter. There is nothing to contradict the statements made in the present

application that the original Petitioner i.e. the father of the minor is untraceable. Despite service, the mother of the minor has not appeared before this Court.

8. In these circumstances, the present application can be allowed by issuing appropriate directions.

9. In order to protect the interest of the minor, it would be appropriate that an authorized representative of the office of the Court Receiver of this Court is directed to complete the conveyance pertaining to the balance 25% undivided share of the minor in the said property, in favour of the Applicant, upon the consideration amount of Rs. 25 Lakhs being deposited in this Court, with further directions in the matter.

10. In view of the above, the application is disposed of by directing that the Court Receiver of this Court shall appoint its authorized Officer to execute and registered conveyance on behalf of the minor, Master Hashutosh Shubhang Dhruv, pertaining to his 25% undivided right, title and interest in the said property i.e. Flat No. G2, Ground Floor, admeasuring approximately 489.80 square feet carpet area situated in A Wing of building known as Devenda Sadan lying and being situated at plot bearing CTS No. 174, Village Majas, R.R. Thakur Marg, Jogeshwari (East), Mumbai, in favour of the Applicant

(Vanraj Vinod Shah HUF) and to do all such acts necessary to give effect to such conveyance. The Applicant is directed to deposit the amount of Rs. 25 Lakhs with the Prothonotary and Senior Master of this Court, within a period of two weeks from today. This amount would be invested as per standard practice by the Prothonotary and Senior Master, to accrue to the benefit of the minor.

11. Upon the said amount being deposited within the stipulated period of time, the Court Receiver of this Court shall through its authorized Officer execute the abovementioned directions for conveyance in favour of the Applicant at the earliest.

12. The amount so deposited with the Prothonotary and Senior Master shall be disbursed along with accrued interest in favour of the minor, upon his attaining the age of majority.

13. The application stands disposed of in above terms.

14. All concerned to act upon on an authenticated copy of this order.

(MANISH PITALE, J.)