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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7103 OF 2024

Aditi Amod Ketkar

.. Petitioner

Versus

The Union of India through The Secretary,
Women and Child Welfare through Office of Law
and Justice & Ors.

.. Respondents

Mr. Bharat Manghani, Advocate for the Petitioner.

Mr. A. I. Patel, Addl.GP a/w Y. D. Patil AGP for Respondent Nos.1
and 2.

CORAM :B. P. COLABAWALLA &
ARIF S. DOCTOR, JJ.

DATE :JUNE 11, 2024

P. C.:

1. By way of present petition, the Petitioner seeks to be appointed and declared as the legal guardian of her father Shri. Prabhakar Gopal Patwardhan on the ground that her father is in a comatose state following a brain hemorrhage on 7 April 2024.

2. It is the case of the Petitioner that she is the daughter of the said Shri. Prabhakar Gopal Patwardhan and Respondent No.3, i.e., Shailaja Patwardhan. Shri. Prabhakar Gopal Partwardhan was born on

6th November 1940 and Respondent No.3 was born on 1st November 1949. Hence, both parents of the Petitioner are of advanced age. They were married on 7th May 1972 and the Petitioner was born to them on 9th September 1973. The Petitioner married Shri. Amod Ketkar on 6th June 1998 and she has two children from the said marriage. She also states that she is the only child of her parents and has no other siblings.

3. The Petitioner states that her father has a significant medical history and suffers from various co-morbidities. He is a cancer survivor and is also undergoing treatment for the same. On 7th April 2024, her father suffered a brain hemorrhage. Although admitted in the ICU in the Multi Specialty Hospital, he transitioned in a comatose state and continues to be so till date.

4. The Petitioner states that her parents are joint owners of certain immovable and movable properties. Her father is also the Promoter of a Co-operative Housing Society which is under redevelopment. There are certain documents required to be executed by her father relating to the redevelopment project. Considering her father's illness and the requirement of managing the properties and shouldering various responsibilities of the Petitioner including

execution of Deed of Conveyance pertaining to the re- development project, etc. as well as looking after his personal needs, it is necessary that the Petitioner, being sole child of her parents, be appointed as the legal guardian of her father so as to be able to shoulder all the responsibilities.

5. Mr. Manghani, the learned counsel appearing for the Petitioner states that the Petitioner is already looking after her father and steadfastly overseeing his essential needs. She is committed to look after the welfare and well-being of her father. Respondent No.3 is also of an advanced age and hence is unable to adequately care for her husband Prabhakar. It is in these circumstances that the Petitioner has filed the present petition seeking to be appointed as the legal guardian of her father. Respondent No.3 has also consented to the Petitioner being appointed as the guardian of Shri. Prabhakar Patwardhan, who is the father of the Petitioner and husband of Respondent No.3.

6. When the above matter had come up before this Court on 15th May, 2024, the facts narrated by us were noted and this Court directed the authorities of Sir J. J. Group of Hospitals and Grant Government Medical College, Mumbai to constitute a Medical Board to

examine the physical and mental health of Shri. Prabhakar Gopal Patwardhan and submit a report to this Court on or before 27th May, 2024. The matter was thereafter taken up on 27th May, 2024 when this Court perused the record and noted that it was evident that the three-member medical panel had returned a finding that Shri. Prabhakar Gopal Patwardhan, aged 83 is in an unconscious state with minimal limb movements on painful stimuli. The report concluded that the said patient is mentally unfit to carry out any financial or legal transaction and that he is unlikely to recover from such condition. Since the matter was moved in the vacation, the Court was of the opinion that the matter be placed before the regular Bench upon reopening when the Petition could be disposed of. This is how the matter came up before us today.

7. We have today heard the learned counsel appearing on behalf of the Petitioner as well as the learned AGP appearing for the State. We find that the report tendered by the three-member medical panel clearly states that Shri. Prabhakar Gopal Patwardhan is in an unconscious state with minimal limb movements on painful stimuli. The report also concludes that the said patient is mentally unfit to carry out any financial or legal transaction and that he is unlikely to recover from such condition. When these are the facts and circumstances, coupled

with the fact that Respondent No.3 also has consented to the Petitioner being appointed as the guardian of Shri. Prabhakar Gopal Patwardhan, we do not see any impediment in allowing the present Petition.

8. As far as the maintainability of the Writ Petition is concerned, we find that the same is squarely covered by a Division Bench decision of this Court in the case of ***Rajni Hariom Sharma Vs. Union of India & Anr.*** (2020 SCC OnLine Bom 880).

9. In view of the foregoing discussion, the following order is passed:-

- A) The Petitioner Aditi Amod Ketkar shall be treated and accepted as a guardian of her father Shri. Prabhakar Gopal Patwardhan, who is in a unconscious state;
- B) All authorities shall accept her status as such;
- C) The Member Secretary of the Maharashtra State Legal Services Authority either through Officials of the said authority or through a Legal Aid Counsel or through a Para

Legal Volunteer shall monitor the functioning of the Petitioner as the guardian of Shri. Prabhakar Gopal Patwardhan every three months and submit a report to the Maharashtra State Legal Services Authority, which shall be compiled for a period of two years. If it is found necessary to extend the period of monitoring, or in case of any exigency, the Member Secretary of the Maharashtra State Legal Services Authority shall be at liberty to move this Court for further orders.

10. With the aforesaid directions, the above Writ Petition is disposed of. However, there shall be no order as to costs.

11. The Registry to furnish a copy of this order to the Member Secretary, Maharashtra State Legal Services Authority for doing the needful.

12. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[ARIF S. DOCTOR, J.]

[B. P. COLABAWALLA, J.]