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

GUARDIANSHIP PETITION NO.10 OF 2024

Anshu @ Anshumala Jitendra Singh ...Petitioner

And

Akshat Jitendra Singh ...Minor

Namrata Parmar with Laxmi Mishra i/b. M/s. Kaushik and Co. for the
Petitioner.

CORAM : R.I. CHAGLA J.
DATE : 24TH JULY, 2024.

ORDER :

1. By this present Guardianship Petition, the Petitioner who is the mother of Akshat Jitendra Singh, ("the minor") has sought her appointment as guardian of the minor and properties of the minor. Further, relief is sought permitting the Petitioner to execute the sale deed and other deeds and documents as guardian of the minor in respect of his 1/4th share in Shop No.2 admeasuring 91.4 sq.ft. Carpet area, Ground Floor, in the Gokul Plaza Co-Operative Housing

Society Ltd., at Thakur Complex, Western Express Highway, Kandivali (East), Mumbai 400 101 (“the said shop”). Further, the Petitioner has sought permission to deposit the sale proceeds therefrom with the Account Officer, High Court, Bombay till the minor attains the age of majority and for the Accounts Officer in turn to invest the said amount in cumulative deposit scheme of nationalized bank for a period as this Court may deem fit and proper according to the age of the minor or for suitable period till the minor attains the age of majority.

2. The Petitioner has stated that her husband Jitendra Bahadur Padmakar Singh alias Jitendra Padmakar Singh vide an Agreement for Sale dated 4th October, 2006 duly registered under No.BDR-11-07414-2006 dated 4th October, 2006 acquired the said shop on terms and conditions mentioned in the Agreement for Sale annexed at Exhibit B to the Petitioner.

3. The Petitioner has further stated that the flat / shop purchasers have formed and registered a Co-operative Society namely “The New Gokul Plaza Co-Operative Society Housing Ltd.” registered on 24th April, 1995 (for short ‘said Society’). The said society has issued share certificate No.92 bearing distinctive Nos.456

to 460 (both inclusive) of Rs.50/- each in favour of Santoshkumar Vijay Vishwakarma, which is later on transferred in the name of Jitendra Bahadur Padmakar Singh. The grandmother of the Petitioner has released her share in the said shop in favour of the Petitioner vide Deed of Release dated 24th January, 2023, The sister of the minor has also released her right in favour of the Petitioner vide Deed of Release dated 11th January, 2023. The Petitioner has sought relief upon the said Deeds of Release.

4. The Petitioner states that her husband Jitendra Bahadur Padmakar Singh died intestate on 1st December, 2020 leaving behind him his mother Girija Padmakar Singh, the Petitioner, daughter Anushka Jitendra Singh and the minor as his only heirs and legal representatives. A copy of the death certificate of the husband of the Petitioner and father of the minor is annexed at Exhibit D to the Petition.

5. The Petitioner states that she is the mother and natural guardian of the minor. The grandfather of the minor expired on 3rd December, 2021 i.e. after the death of father of the minor.

6. The Petitioner states that the grandmother of the minor

has given her consent and / or no objection to the appointment of the Petitioner as guardian of the minor and also given her consent and / or no objection to receive the amount of legal due and / or sale proceed, if any, being paid to the minor. Further, the elder sister of the minor has given her consent and / or no objection to the appointment of the Petitioner as guardian of the minor and also given her consent and / or no objection to receive the amount of legal due and / or sale proceed, if any, being paid to the minor. Annexed at Exhibit E to the Petition are the copies of the Consent Affidavits of the grandmother and sister of the minor.

7. The Petitioner states that after demise of her husband and father in law, there is no earning member in the family. The Petitioner finds it difficult to manage the day to day affairs and expenses of the family. The Petitioner states that the daughter of the Petitioner was of marriageable age and it was necessary to marry her. The marriage was fixed but the Petitioner had no money to perform the said marriage and meet the expenses thereof. The Petitioner further states that she had taken friendly loans from the the certain persons mentioned in paragraph 9 of the Petition, for the marriage of her daughter with Saurabh Shahi on 6th May, 2023.

8. The Petitioner states that she is in debt and unable to repay the friendly loans unless she sells the said shop. The Petitioner states that the minor cannot execute the Sale Deed, therefore, it has become necessary for the Petitioner to approach this Court to get herself appointed as guardian of the minor to seek permission from this Court to execute the Sale Deed in respect of the said shop on behalf of the minor.

9. The Petitioner has negotiated the sale of said shop with the persons mentioned in paragraph 11 of the Petition who have agreed to purchase the said shop for consideration of Rs.49,00,000/- out of which the share of the Petitioner would be 25% i.e. Rs.12,25,000/-. The minor is entitled to the sale proceeds to the extent of his share in the said shop and which will be paid by the Petitioner and all other dues as per Hindu Succession Act, 1956. The Petitioner states that she is the only person maintaining and taking care and / or looking after the minor. She has accordingly sought relief in the Petition including appointing herself as guardian of the minor and stating that she has no adverse interest to the interest of the minor.

10. I have considered the averments in the Petition as well as fact that the Petitioner is the mother and natural guardian of the minor. The other legal heirs of the husband of the Petitioner who was the owner of the said shop have given their consent to the appointment of the Petitioner as guardian of the minor and also consent to the Petitioner to receive the amount out of the sale proceeds, being paid to the minor as per his share in the said shop. Further, the Petitioner is looking after the welfare and maintenance of the minor who is residing with her. The Petitioner had also incurred the expenses for performing marriage of her daughter and for which friendly loans were taken. The Petitioner is in debt and unable to repay these loans and has accordingly sought permission to sell the said shop and to deposit the share of the minor from the sale proceeds of the said shop with the Accounts Officer of this Court till the minor attains the age of majority. In that view of the matter, the relief sought for in the Petition requires to be granted.

11. Hence, the Guardianship Petition is made absolute in terms of prayer Clauses (a) to (e), which read as under:-

(a) That this Hon'ble Court may be pleased to dispense with the notice required to be given under

Section 11 of the Guardians and Wards Act, 1890;

(b) That the Petitioner being the mother and natural guardian of the minor abovenamed be appointed as 'Guardian' (without security and without remuneration) of the minor and properties of the minor namely Master Akshat Jitendra Singh.

(c) That the Petitioner may be permitted to execute Sale Deed and other deeds and documents as Guardian of the minor Master Akshat Jitendra Singh in respect of his 1/4th share in the said shop Shop No.2 admeasuring 91.4 sq.ft. Carpet area, Ground Floor, in the Gokul Plaza Co-Operative Housing Society Ltd., at Thakur Complex, Western Express Highway, Kandivali (East), Mumbai 400 101 on the plot of land bearing CTS Nos.762, 7673, 765 and 766 of village Poisar, Taluka Borivali, District, District Mumbai Suburban within the municipal limit R/South Ward for the total consideration of Rs.49,00,000/- (Rupees Forty Nine Lakhs only) (1/4th share of the minor Rs.12,25,000/-) ultimately payable to the minor above named as per the Hindu Succession Act, 1956 towards his 1/4th share in the said shop.

(d) That the Petitioner may be permitted to deposit the said amount with the Account Officer, High Court, Bombay (Original Side) till the minor attains the age of majority for his care and education.

(e) That the Accounts Officer, High Court, Bombay (Original Side) may be ordered and directed to invest the said amount so received from the said Prospective Purchasers in cumulative deposit scheme of any nationalized bank for a period as this Hon'ble Court may deem, fit and proper according to the age of minor abovenamed or for suitable period for the said minor attains the age of majority.

12. The Guardianship Petition is accordingly disposed of.
There shall be no order as to costs.

[R.I. CHAGLA J.]