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

GUARDIANSHIP PETITION NO.15 OF 2024

Madhavi Manish Nalavade

...Petitioner

Versus

Master Neel Manish Nalavade

...Minor

Ms. Dhanashree Bhate for the Petitioner.

CORAM : R.I. CHAGLA J.

DATE : 25TH OCTOBER, 2024.

ORDER :

1. By this Guardianship Petition, the Petitioner is seeking her appointment as guardian of the person and property of Minor Neel Manish Nalavade ("the said minor"). The property of the said minor has been described in Exhibit H to the Guardianship Petition. Further, relief is sought for allowing the Petitioner to sign and / or execute and / or register all deeds, documents including the Sale Deed, Agreement for Sale in respect of the said property described in prayer (a) as well as to execute consequential documents namely Power of Attorney, Indemnity Bond etc., if so required.

2. The Petitioner has stated that the said minor is son of the Petitioner who was born on 18th October, 2012. The birth certificate of the said minor is at Exhibit A to the Petition. The Petitioner was married to one Manish Ramchandra Nalavade on 24th February, 1999. The said minor was born out of the said wedlock with the said Manish Ramchandra Nalavade on 18th October, 2012.

3. The Petitioner has stated that the said Manish R. Nalavade died intestate at Mumbai on 8th November, 2020 leaving behind him his heirs and legal representatives to succeed to his estate as per the provisions of the Hindu Succession Act, 1954 by which the deceased was governed at the time of his death. The details of legal heirs is given in the chart at paragraph 3 to the Petition.

4. The Petitioner has stated that there are no other legal heirs and legal representatives of the said Manish R. Nalavade except as mentioned in the chart at paragraph 3 to the Petition. Thus, each of the heirs of the deceased are entitled for 33.33% i.e. 1/3rd undivided share, right, title and interest in the said flat. The mother of the said deceased Manish R. Nalavade had pre-deceased the deceased on 16th April, 2016.

5. The Petitioner has further stated that initially the father of the deceased viz. Ramchandra Sitaram Nalavade was absolutely well seized and possessed of or otherwise well and sufficiently entitled to Flat No.105. 1th Floor in A Wing in Building No.1, admeasuring about 280.00 sq.ft. built up area equivalent to 26.02 sq. mtrs., situate in Vahatuk Nagar Co. operative Housing Society Limited, which was duly registered under the provisions of the Maharashtra Co-operative Societies Act, 1960 bearing Registration No.BOM/HSG/5189 dated 22nd August, 1977, and more particularly situate at Kevni Pada, Ambivali, Ceasar Road, Andheri (West), Mumbai-400058 (hereinafter referred to as "FLAT"). The Building No.1 comprised of Ground plus Three Upper Floors without lift, and the land beneath therein bearing CTS Nos.433 and 445, is situate at Village Ambivali, Taluka: Andheri, in the Registration District of Mumbai Suburban District, and more particularly situate at Kevni Pada, Ambivali, Ceasar Road, Andheri (West), Mumbai-400 058.

6. The Petitioner states that the said Vahatuk Nagar CHSL had allotted a Share Certificate bearing No.52 comprising of 05 (Five Shares) consecutively numbered as Share Nos.256 (Two Hundred and Fifty Six) to 260 (Two Hundred and Sixty) both inclusive of

Rs.50/- (Rupees Fifty only) each to the said Ramchandra Sitaram Nalavade on 11th November, 1979, being a member and shareholder of the said society in respect of the said Flat.

7. The Petitioner has stated that the said flat was gifted by the said Ramchandra Sitaram Nalavade to his son late Manish R. Nalavade vide Gift Deed dated 27th April, 2017 registered before the office of the Joint Sub Registrar of Assurances at Andheri-3, Mumbai under Sr. No.BDR-9/4063/2017. A copy of the Gift Deed dated 27th April, 2017 has been annexed at Exhibit G to the Petition.

8. The Petitioner has stated that after the death of Manish R. Nalavade the said Flat was transferred in the name of the Petitioner on 13th February, 2022. Annexed at Exhibit A is a copy of the share certificate dated 13th February, 2022 showing the name of the Petitioner.

9. The Petitioner states that she intends to sell the said flat as she is in financial need as she intends to purchase a new flat in the name of the said minor. Accordingly, the present Petition has been taken out for permission to sell the said flat for monetary

consideration to a prospective purchaser and upon which the Petitioner undertakes to deposit the share of the said minor before this court which may be directed to be invested in the nationalized bank so as to protect the share of the said minor. The Petitioner has stated that she is looking after her children including the said minor who is now studying in 6th standard. The Petitioner states that she require funds for his further studies and which is for the benefit of the said minor. Accordingly, she has sought appointment as guardian of the person and property of the said minor.

10. The learned Counsel appearing for the Petitioner has tendered Consent Affidavit dated 24th October, 2024 of the other legal heir and next of kin of late Manish R. Nalavade giving her no objection for appointment of the Petitioner as guardian. The Consent Affidavit dated 24th October, 2024 is taken on record.

11. Having considered the averments in the Guardianship Petition, a case has been made out for the Petitioner to be appointed as guardian of the person and property of the said minor. The Petitioner is the mother of the said minor and upon the demise of the biological father of the said minor, Late Manish R. Nalavade, the

Petitioner is the owner of the said flat and intends to sell the said flat and use the share of the said minor in the proceeds thereof for the welfare of the said minor.

12. In view thereof, the Guardianship Petition is allowed in terms of the prayer Clauses (a) and (b) to the Petition, which read thus:-

“(a) Notice under Section 11 of the said Act be dispensed with, and this Hon’ble Court be pleased to appoint the Petitioner as guardian of the person and property of the minor, Master Neel Manish Nalavade being property described in Exhibit H annexed hereto.

(b) This Hon’ble Court be pleased to authorize the Petitioner to sign and / or execute and / or register all deeds, documents, including the Sale Deed, Agreement for Sale in respect of the said property described in prayer (a) above as well as to execute consequential documents namely Power of Attorney, Indemnity Bond etc., if so required.

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

[R.I. CHAGLA J.]