

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

WRIT PETITION NO. 2875 OF 2024.

Ami Dushyant Parekh alias  
Ami Moneek Trivedi

.. Petitioner

**Versus**

Union of India  
& Others

.. Respondents

**Adv.** Prithvish Purohit i/b. Lex Purohit, for the Petitioner.

**Adv.** Ms. Gaurangi Patil, AGP with Ms. Vaishali Chaudhari, AGP, for  
Respondent-State.

SMITA  
RAJNIKANT  
JOSHI

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**CORAM:** B. P. COLABAWALLA &  
FIRDOSH P. POONIWALLA, JJ.  
**DATE:** JUNE 19, 2024

**P. C.**

**1.** This Writ Petition is filed for the following reliefs:-

*(a) that this Hon'ble Court be pleased to issue an appropriate writ, order or direction to appoint the Petitioner as the legal guardian of Ms. Avani Dushyant Parekh who is in a Persistent Vegetative State since August, 2023;*

*(b) that this Hon'ble Court be pleased to issue an appropriate writ, order or direction to hold and declare that the Petitioner is the manager of the movable and immovable properties belonging to Ms. Avani Dushyant Parekh as indicated in the table in paragraph 10 of the Petition;*

*(c) that this Hon'ble Court be pleased to issue an appropriate writ,*

*order or direction to permit the Petitioner to sell and/or dispose of the undivided 1/6th share of Ms. Avani Dushyant Parekh in the joint family property owned by the members of the Parekh family at Parekh House, 14 Mama Parmanand Marg, Mumbai-400 004; bearing Cadastral Survey No.1497 of Girgaum Division and Plot No. 18B of Mathew Road Estate within the jurisdiction of MCGM and more particularly described in the Schedule Exhibit: "F" hereto; in view of the Persistent Vegetative State of Ms. Avani Dushyant Parekh;*

*(d) that this Hon'ble Court may be pleased to allow the Petitioner to re-invest the monies received by the said Avani in her name from the sale of her undivided 1/6th share in the joint family property owned by the members of the Parekh family at Parekh House, 14 Mama Parmanand Marg, Mumbai - 400 004; bearing Cadastral Survey No.1497 of Girgaum Division and Plot No.18B of Mathew Road Estate within the jurisdiction of MCGM and more particularly described in the Schedule Exhibit: "F" hereto; in view of her Persistent Vegetative State, in accordance with the provisions of the Income Tax Act, 1961 pertaining to capital gains tax;*

*(e) that this Hon'ble Court be pleased to issue an appropriate writ, order or direction to declare that the Petitioner is permitted to operate all accounts including Bank accounts, Overdraft Accounts, Fixed Deposits, PPF Account, Demat Accounts as indicated in the table in paragraph 10 of the Petition in her capacity as the legal guardian of Ms. Avani Dushyant Parekh and manager of her assets and to carry out all banking functions including updating of KYC details renewal/extension of Bank Guarantees, etc;*

*(f) that this Hon'ble Court be pleased to issue an appropriate writ, order or direction to declare that the Petitioner is permitted to dissolve the partnership firm, Respondent No. 3 partnership Firm by filing a Deed of Dissolution and to continue the business of Respondent No. 4 partnership Firm on behalf of Avani including continuing the Bank Guarantees and carrying out all other banking functions in view of Persistent Vegetative State of Ms. Avani Dushyant Parekh;*

**2.** The reliefs in the above Writ Petition are sought on the basis that the sister of the Petitioner – Avani D. Parekh, aged 55 years, is in a vegetative state since August, 2023. It is for this reason that the Petitioner seeks to be appointed as the legal guardian of her unmarried sister, Avani D. Parekh.

3. When the above matter had came up on 9<sup>th</sup> May 2024, the learned Additional G. P. submitted that she was yet to receive instructions from the Dean, J.J. Group of Hospitals, regarding examination of Avani D. Parekh. Hence, the matter was adjourned to 17<sup>th</sup> May, 2024. Thereafter, on 17<sup>th</sup> May, 2024, the Court was informed that the Dean, J. J. Group of Hospitals, had agreed to depute a team of doctors for examination of Avani D. Parekh at Ahmedabad, Gujarat. Accordingly, the team of doctors visited Ahmedabad and have made a Report dated 7<sup>th</sup> June 2024 to this Court, which reads thus:-

*“ We have examined Ms. Avani Parekh, 55 yrs old female, on 07/06/2024 at her residence in Ahmedabad, Gujarat. She is bed bound, in stuporous state, on RT feeds, breathing spontaneously through tracheostomy tube. She has spontaneous eye opening, minimal response to painful stimuli, but does not respond to verbal commands. She does not have spontaneous speech. She has no spontaneous or purposive movement. As per medical records she received CPR on 10/08/2023 and being in this state since then. She is unfit to do any financial / legal transaction and she is unlikely to recover from her condition.”*

The said Report is taken on record and marked “X” for identification.

4. Considering the report, coupled with the fact that another sister of Avani, namely Aditi Parekh, has given her consent to the Petitioner being

appointed as the legal guardian of Avani D. Parekh, we do not find any hesitation in allowing this Writ Petition.

5. We further find that the issue raised in this Writ Petition is also covered by the judgement of a Division Bench of this Court in the case of ***Rajani Sharma v/s. Union of India & Another*** (2020) SCC Online, Bom. 880.

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

- (a) The Petitioner – Ami D. Parekh, alias Ami M. Trivedi, shall be treated and accepted as guardian of her sister, Avani D. Parekh who is in stuporous state, unfit to do any financial/ legal transaction and is unlikely to recover from this condition;
- (b) All authorities shall accept her status as such;
- (c) The Petitioner is allowed to operate the bank accounts and deal with all the movable and immovable properties of Avani D. Parekh;
- (d) It is made clear that the Petitioner shall be allowed to do all acts on behalf of Avani D. Parekh, including selling and/or disposing of her undivided 1/6th share in the joint family property at 14, Mama Parmanand Marg, Mumbai 400 004 and reinvest the monies

received from the said sale in accordance with the provisions of the Income Tax Act, 1961 pertaining to capital gains tax.

- (e) The Member Secretary of the Maharashtra State Legal Services Authority, either through officers of the said Authority or through a Legal Aid Counsel or through a Para Legal Volunteer shall monitor the functioning of the Petitioner as a guardian of Avani D. Parekh 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.
- (f) The Petitioner is at liberty to apply for a certified copy of the medical report dated 7<sup>th</sup> June 2024 which we have taken on record today and marked 'X' for identification.

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

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

9. 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.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]