

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO.11126 OF 2025

SAMYUKTA LAKSHMAN,)
Aged about 36 years,)
F/109, Tarapore Garden, New Link Road,)
Near Oshiwara Police Station,)
Andheri West, Azad Nagar, Mumbai)
Maharashtra – 400053) Petitioner

V/s.

1. UNION OF INDIA)
Through the Department of Health &)
Family Welfare, Government of India,)
New Delhi.)

2. **STATE OF MAHARASHTRA**)
Directorate of Health Services,)
St. Georges' Hospital Compound,)
Mumbai – 400 001.)
)
3. **MRS. NALINI LAKSHMAN,**)
Presently residing at Epoch Elder)
Care, Picosso House, Nyati County,)
Undri, Pune, Maharashtra.)

4. **B.J. GOVERNMENT MEDICAL**)
COLLEGE AND SASSOON)
GENERAL HOSPITAL,)
Through the Dean, Respondent No.4)
Jai Prakash Narayan Road,)
Railway Station Road, Agarkar Nagar)
Pune, Maharashtra – 411011) ... Respondents

Mr. Shashwat Rai a/w. Ms. Mrinali Dave i/b. Keystone Partners,
Advocate for Petitioners

Ms. S.D. Vyas, Addl. G.P. a/w. Mrs. M.S. Bane, AGP for State

Dr. Uday Warunjikar a/w. Ms. Gargi Warunjikar, Advocate for
Respondent No.1

CORAM : REVATI MOHITE DERE &
SANDESH D. PATIL, JJ.

DATE : 18TH SEPTEMBER, 2025

JUDGMENT (Per Sandesh D. Patil, J.) :-

1. By the present petition, the petitioner seeks her appointment as a natural guardian of respondent No.3, Mrs. Nandini Lakshman; who is suffering from advance stage of Alzheimer; for all purposes including but not limited to managing her personal affairs, medical care, finances and property related matters.

2. The petitioner is daughter of the respondent No.3. By an order dated 20th August 2025, this court (**Coram : Revati More Dere and Dr. Neela G. Gokhale, JJ.**) had granted leave to add B.J. Government Medical College and Sassoon General Hospital, Pune as the party respondent.

3. By the same order, the court had directed the Dean of B.J. Government Medical College and Sassoon General Hospital, Pune, to constitute a medical board to examine the respondent No.3 and to submit a report to this court. Accordingly, the Dean of B.J. Government Medical College and Sassoon General Hospital, Pune submitted the Medical Boards report on 8th/9th September 2025 in respect of the medical condition of respondent No.3. The said report is taken on record and marked 'X' for identification. The conclusion of the report reads as under :-

“On the basis of medical history from relatives, previous medical records and clinical examination, patient Mrs. Nandini Lakshman, concluded that she is suffering from cognitive impairment indicative Alzheimer Dementia. She lacks mental

capacity to make independent decisions regarding her self care including medical needs, personal belonging and financial matters.”

4. The report of the Medical Board, B.J. Government Medical College and Sassoon General Hospital, Pune, confirms the averment in the petition that the respondent No.3 who is 67 years of age is unable to make any independent decisions regarding her self care including medical needs, personal belongings and financial matters.

5. We have heard parties and perused the record with their assistant, Mr. Rai. Learned Advocate appearing for the petitioner submitted that respondent No.3 was showing initial symptoms of difficulty in finding the right words, repeated the questions, however, after 2017 onwards after the demise of her husband, instance of repetition became more frequent. Her condition deteriorated particularly between 2018 and 2021 after respondent No.3 developed Covid – 19 and Dengue in the year 2022. Her condition worsened since January 2024. He pointed out that Respondent No.3

has been separated from her husband Mr. Nikhil Lakshman since around 1996, however they are not legally divorced.

6. Learned counsel Mr. Rai submitted that the husband of respondent No.3, Mr. Nikhil Lakshman has filed an affidavit in support of the petition and that the same forms part of the present petition at Exhibit 'A'. Learned counsel Mr. Rai submitted that the petitioner is the daughter of the respondent No.3 and she is taking the medical care of the respondent No.3.

7. We have considered the decision in the matter of ***Vijay Ramchandra Salgaonkar V/s. State of Maharashtra 2021 SCC online Bombay 14114***. The relevant paragraphs in said case are reproduced as under :-

"17.1 In that case it was held that when a person is in coma or in a comatose condition or in a vegetative state, it cannot be construed that such a person is a physically challenged person or a mentally challenged person as is understood under the relevant statutes. Nor such a person can be construed to be a minor for the purpose of appointment of guardian. In the circumstances it

was held that statutes like the Guardians and Wards Act, 1890, Mental Healthcare Act, 2017 etc. would not applicable to persons in a comatose condition or in a vegetative state. It was also held that there is no legislation in India relating to appointment of guardians to patients lying in comatose or vegetative state.

17.2 On the crucial issue as to relief that may be granted to the petitioner by invoking writ jurisdiction under Article 226 of the Constitution of India, it was noticed that there is no statutory provision governing the field relating to appointment of guardian of a person lying in a comatose condition or in a vegetative state. This Court referred to and deliberated upon the doctrine of parens patriae whereafter it was held that in a case like this it is the court alone as the parens patriae which must take the ultimate decision though views of the near relatives, next friend and doctors must be given due weightage. After referring to decisions of various High Courts

including our High Court, this Court examined the width and plenitude of the power of the High Courts under Article 226 of the Constitution of India and also relied upon the decision of the Supreme Court in Aruna Ramchadra Shanbaug Vs. Union of India, (2011) 4 SCC 454, and held that when the High Court exercises jurisdiction under Article 226 of the Constitution of India, it does so to further the cause of justice. It was held as under:

"38. From the above, it is clearly deducible that when the High Court exercises jurisdiction under Article 226 of the Constitution of India, it does so to further the cause of justice. To provide justice or discharge ex debito justitiae is the raison d'etre of the courts. The Latin expression ex debito justitiae literally means a debt of justice; on account of justice; a claim the refusal of which would involve an injustice, and therefore, one which justice owes it to

the claimant to recognize and allow. The doctrine of ex debito justitiae is well established and requires no further elaboration. In addition to Article 226 of the Constitution, such power of the High Court is traceable to section 151 of the Civil Procedure Code, 1908 and section 482 of the Code of Criminal Procedure, 1973."

17.3 While acceding to the prayer of the petitioner in that case, this Court also sounded a note of caution that there should be some kind of monitoring of the functioning of the petitioner as guardian to ensure that guardianship was being used for the benefit of the person who was in a vegetative state observing that such monitoring may be carried out through the forum of Maharashtra State Legal Services Authority constituted under the Legal Services Authorities Act, 1987."

8. Considering the legal and factual position and more particularly the report submitted by the Dean of B.J. Government Medical College and Sassoon General Hospital, Pune, we have no hesitation in granting the relief as sought for by the petitioners i.e. prayer clause 'a', which reads as under :-

- a. That this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other Writ, Order or direction in the nature thereof under Article – 226 of the Constitution of India thereby holding and declaring the Petitioner as legal guardian of Mrs. Nandini Lakshman, Respondent No.3, who is suffering from advance stage of Alzheimer's, for all purposes, including but not limited to managing her personal affairs, medical care, finances, and property related matters.

9. We therefore appoint the petitioner as the legal guardian of respondent No.3, Smt. Nandini Lakshman, in respect of the following properties :-

- (i) 28, Kanara House, Above SVC Bank, Mogul Lane, Mahim West, Mumbai – 400 016 (50% ownership, co-owned with her sister, Mrs. Padmini Lajami);
- (ii) C-602 Valencia Bhakti Park Co-operative Housing Society Limited, Bhakti Park, Near Imax Theatre, Anik-Wadala Link Road, Wadala (East), Mumbai – 400 037 (33.3% ownership, co-owned with Late Poyyai Lakshmanan and the Petitioner);
- (iii) F-109 Tarapore Garden, New Link Road, Near Oshiwara Police Station, Andheri West, Azad Nagar, Mumbai, Maharashtra – 400 053 (50% ownership, co-owned with the Petitioner).
- (iv) Savings Bank Account No. 00191000269860 held with Respondent No.3, viz. HDFC Bank, Versova Branch as a joint beneficiary along with the Petitioner;

- (v) Demat account bearing DP ID IN 301151, Client ID 26455947 held with Respondent No.3, viz HDFC Securities, Versova Branch, as a joint beneficiary with the said Mr.Nikhil Lakshman;
- (vi) Demant account bearing DP ID IN301151, Client ID 23294143 held with Respondent No.3, viz. HDC Securities, Versova Branch, as a sole beneficiary;
- (vii) Savings Bank Account No. SB/GEN/1026 (113903130001026) held with Respondent No.4, viz. the SVC Co-operative Bank Ltd., Oshiwara Branch, along with the general locker no. 106 (and the assets lying therein, including jewellery, which are owned by Respondent No.3) as a joint beneficiary with the Petitioner and the said Mr.Nikhil Lakshman; and

(viii) SB Pension Account No. 006112110001202
(Customer ID : 100175535) held with
Respondent No.5, viz. Bank of India, Versova
Branch, as a sole beneficiary.

10. The petitioner may draw on any account mentioned above, held in the name of respondent No.3 either solely or jointly, but only for the purpose of meeting the needs of the respondent No.3. The petitioner shall not effect any transfer, gift or other distribution to herself or any other family members without prior leave of the court.

11. The petitioner is at liberty to make, renew, reinvest the investments mentioned in clause No. (v) and (vi) of the aforesaid paragraph only for maintenance, upkeep and care of respondent No.3.

12. As far as immovable property mentioned in Clause Nos. (i), (ii) and (iii) is concerned, the immovable property shall not be transacted/transferred without prior leave of the court.

13. With the aforesaid directions, the present petition stands disposed of accordingly.

14. All the concerned parties to act on the authenticated copy of this order.

(SANDESH D. PATIL, J.)

(REVATI MOHITE DERE, J.)

amraut