

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

GUARDIANSHIP PETITION NO.2 OF 2025

Bhavini Bhavesh Sejpal

...Petitioner

Mr. Rubin Vakil with Mr. Manish Doshi and Ms. Isha Thakur i/b Vimaldalal & Co. for the Petitioner.

**CORAM : ABHAY AHUJA, J.
DATE : 6th FEBRUARY, 2025**

PC. :

1. Pursuant to the order dated 23rd January, 2025, today when the mater is called out, Mr. Vakil, learned Counsel appearing for the Petitioner has placed before this Court material which establishes that this Court would have jurisdiction to entertain a Petition under Section 8(2) of the Hindu Minority and Guardianship Act, 1956.

2. Mr. Vakil has submitted that a combined reading of Sections 8(5) and 8(6) of the Hindu Minority and Guardianship Act, 1956 and Section 4(4) of the Guardians and Wards Act, 1890 and Section 5 of the Greater Bombay Laws and the Bombay High Court (Declaration and Limits) Act, 1945, suggests that this Court would have jurisdiction to entertain an application made under Section 8(2) of the Hindu Minority and Guardianship Act, 1956.

3. Mr. Vakil has also relied upon the decision of this Court in the case of *Chatrabhuj Mavji Merchant Vs. Sumati Morarji and Ors.*¹ as well as the decision in the case of *Girish J. Bobade Vs. Ajay Thakur and Ors.*²

4. Upon a combined reading of Sections 8(5) and 8(6) of the Hindu Minority and Guardianship Act, 1956 and Section 4(4) of the Guardians and Wards Act, 1890 and Section 5 of the Greater Bombay Laws and the Bombay High Court (Declaration and Limits) Act, 1945 and a perusal of the said decisions and in particular paragraphs 4, 5 and 9 in the case of *Chatrabhuj Mavji Merchant Vs. Sumati Morarji and Ors.*(*supra*) and paragraph 11 in the case of *Girish J. Bobade Vs. Ajay Thakur and Ors.*(*supra*), this Court is of the view that as far as the property of the minor is concerned, this Court would have jurisdiction to entertain an application under Section 8(2) of the Hindu Minority and Guardianship Act, 1956.

5. Having held that this Court has jurisdiction to entertain an Application filed under Section 8(2) of the Hindu Minority and Guardianship Act, 1956, this Court now proceeds to consider the facts of the case and the prayers sought for.

1. 1992 Mah. L. J. 1075

2. 2006(2) Mah. L. J. 702

6. As noted in the order dated 23rd January, 2025, the Petition has been filed seeking permission of this Court to sell the 33.34% undivided share of the minor viz. Vansh Bhavesh Sejpai in the flat No. 503 on the 5th Floor of the “F” wing of the building known as Dheeraj Presidency belonging to Dheeraj Presidency Co-operative Housing Society Limited along with the said 33.34% share in stilt parking space no. F-8 in the compound of the said building together with (5) fully paid up shares bearing distinctive nos. 971 to 975 under Share Certificate No. 195 dated 27th February, 2004 situated at M. G. Road, Kandivali (West), Mumbai-400 067 (the “said flat”) to prospective buyers, the price of the said flat not being for price not less than Rs. 1,11,00,000/-

7. Mr. Vakil has submitted that earlier the grandmother of the minor and the father each held 50% share in the said flat. However after the death of the father, the 50% share of the deceased father who died intestate, pursuant to the provisions of the Hindu Succession Act, 1956 devolved on the grandmother, the mother of the minor and the minor in equal proportions viz. each of them got 16.66%. That, the grandmother gifted her 16.66% to Vansh by Deed of Release dated 24th April 2024 and therefore Vansh became 33.34% holder of the

undivided share in the said flat. That, the mother held 16.66%. Mr.Vakil would submit that since the said flat is required to be sold in order to provide for the family as also for Vansh's Welfare, as the Petitioner's husband has passed away, this Petition has been filed.

8. It is observed from the Petition that the Petitioner, the minor Vansh, the deceased husband-father and his parents had earlier relocated to Ahmedabad and Vansh was admitted to Ahmedabad International School, near Judges Bunglow Road, Bodakdev, Ahmedabad 380015, Gujarat, for his education and that presently he is studying in Grade 9 (CAIE) at the said school. At Exhibit C is a detailed chart outlining the expenses related to Vansh's school fees, tuition fees and other miscellaneous expenses associated with his education and upbringing. It is observed that currently his expenses amount to Rs.3,52,820/- per annum and would obviously be increasing every year.

9. It has been submitted that since the demise of Vansh's father, the Petitioner was dependent on her father who is not only taking care of the Petitioner, his wife but also Vansh from his pension. That, the Petitioner is a housewife and having a nominal income from the savings of her late husband. That, her mother is suffering from an ailment in

her legs. That, therefore, it has become necessary for the Petitioner to generate funds to bear the expenses of her minor son's education and other expenses for his over all well-being. That, since the Petitioner and her son are residing in Ahmedabad and since funds are needed for minor Vansh's education and welfare, the Petitioner has been constrained to sell the said flat and has approached for previous permission of this Court under Section 8(2) of the Hindu Minority and Guardianship Act, 1956, to sell the minor's share, which it would be necessary to sell the said flat.

10. Mr. Vakil has submitted that pursuant to Section 8 of the Hindu Minority and Guardianship Act, 1956, the Petitioner being a mother of the Vansh is the natural guardian, however, without permission of the Court the natural guardian is not permitted to sell the immovable property of the minor and therefore, this Petition has been filed.

11. Mr. Vakil submits that the Petitioner has conducted market inquiries and has been informed that the market value of the said flat is approximately Rs.1,11,00,000/- as per the prevailing market rates and that, therefore, the said flat would not be sold less than the said value and paragraph-9 of the said Petition also has a submission with respect to the same.

12. Mr. Vakil submits that under Section 13 of the Hindu Minority and Guardianship Act, 1956, the welfare of the minor is paramount consideration and that the minor's share of the proceeds received from the sale of the said flat would be use for the welfare, benefit including in respect of his education expenses which are essential for the over all welfare and well-being of the minor.

13. Having heard the learned Counsel and having considered the submissions and having perused the Petition, I am of the view that 33.34% of the share of Vansh in the said flat No. 503 on the 5th Floor of the "F" wing of the building known as Dheeraj Presidency Co-operative Housing Society Limited along with the said share in the stilt parking space no. F-8 in the compound of the said building together with (5) fully paid up shares bearing distinctive nos. 971 to 975 under Share Certificate No. 195 dated 27th February, 2004 situated at M. G. Road, Kandivali (West), Mumbai-400 067 be sold as that would be in the interest and for the welfare of the minor child Vansh, the sale price of the said flat not being less than Rs. 1,11,00,000/-

14. The submissions/undertakings in respect of and for the welfare of the minor Vansh are accepted as undertakings to this Court.

15. The Petition accordingly stands allowed and disposed as above.

(ABHAY AHUJA, J.)

NIKITA
YOGESH
GADGIL

Digitally signed by
NIKITA YOGESH
GADGIL
Date: 2025.02.07
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