IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 3696 OF 2024
IN
WRIT PETITION NO. 5157 OF 2024

Anita Kishore .....Applicant

In the Matter in Between:

Anita Kishore ....Petitioner
Vs.
1. Union Of India
2. State of Maharashtra
3. Kishore Shreedharan
4. Sarah George
5. Usha Suresh Pillai .....Respondents

Mr. Manoj Agiwal, for the Applicant/Petitioner.
Mr. Vishal Thadani, Addl. GP, with Mr. Vikrant Parshurami, AGP for Respondent No.2-State.
Respondent Nos.3, 5 and 7 present.
Respondent No.7 present (through V/C).
Respondent No.6 not present.

CORAM : REVATI MOHITE DERE &
DR. NEELA GOKHALE, JJ.
DATE : 18th MARCH 2025

P.C.:-

1. By this Petition, the Petitioner seeks a direction to declare herself and the Respondent No.4 to act as legal guardians of her husband- Kishore Shreedharan, who is suffering from psychosis,

depression and dementia after an event of Grade-IV Subarachnoid hemorrhage rendering him unable to administer his movable and immovable properties including operation of his bank account and manage his other movable and immovable properties. The Petitioner is the wife of Respondent No.3-Kishore and the Respondent Nos.6 and 7 are their son and daughter respectively. Respondent No.4 is the aunt of the Petitioner and Respondent No.5 is the married sister of said Kishore. Respondent No.1 is the Union of India and the Respondent No.2 is the State of Maharashtra.

2. By an order dated 24th January 2025, this Court had directed the Authorities of the Grant Government Medical College & Sir J.J. Group of Hospitals, Mumbai to constitute a Medical Board to also include a Neurologist from the Department concerned to examine the physical and mental health of Shri Kishore and submit a report to this Court. Accordingly, today Dr. Sanjay Surase, Medical Superintendent of Sir J.J. Group of Hospitals, Mumbai has submitted a report dated 24th February 2025 in respect of Shri Kishore. The Report is taken on record and marked 'X' for Identification. The report is signed by Dr. Akash Chheda, one of the Members of the Medical Board constituted by the Hospital. The impression recorded in the

report states that he suffers from global cognitive decline and is unfit to make legal and financial decisions independently. The Medical Report also concludes that he is unlikely to recover completely and his recovery can be a delayed process.

3. The Report of the Medical Board confirms the averments made in the Petition that Shri Kishore is 61 years old; that he suffers from severe depression and the cognitive profile reveals impaired scores in the domain of orientation, attention, verbal memory, etc; and that he is unable to take any decision and cannot provide informed consent.

4. Mr. Manoj Agiwal, learned counsel appears for the Petitioner. Mr. Vishal Thadani, learned Additional Government Pleader represents the State. The Respondent Nos.4, 5 and 7 are present before the Court today. The Respondent Nos.4 and 5 have filed their Affidavits of Consent dated 21st September 2024 duly affirmed before a Notary Public. The Respondent Nos.6 and 7 have filed their affidavits dated 5th March 2025 duly affirmed before a Notary Public. All of them have given their consent and have no objection to the appointment of the Petitioner as legal guardian of said Shri Kishore. We have interacted with Respondent Nos.4 , 5 and 7 personally and we are satisfied that

these Respondents have understood the connotations of the Petition and consent to the same. Although Respondent No.6 was unable to remain present before Court today, we have perused her affidavit carefully.

5. We have heard the parties and perused the record with their assistance.

6. We have considered the submissions made by the parties. It is clear from report of the Medical Board that Kishore suffers from dementia and other ailments due to which he is unable to deal with his properties. It is the contention of Mr. Agiwal that the Petitioner and said Kishore have executed their joint Will and Testament and have bequeathed their respective properties to the survivor of them and thereafter, to their son – Rohan. It is also his contention that Kishore is also the sole beneficiary under the Will of his father in respect of one flat at Mumbai which is their residential home at present. There is also a Testamentary Petition pending before the Courts of law. According to Mr. Agiwal, it is for this reason that the Petitioner seeks to appoint herself and Respondent No.4- Aunt of her husband jointly as legal guardians of Kishore.

7. The properties of the Petitioner and Kishore are as under:

Immoveable Properties :

Sr. No.	Description of Property	In the name of / Current Value (Rs.)
1.	Flat No C-503, Saarrthi Sovereign Cooperative Housing Society, Village Marunji, Hinjewadi, Pune 411057	Jointly held Kishore Shreedharan & Anita Kishore / Rs 45 Lakhs
2.	Flat No C-603, Saarthi Sovereign Cooperative Housing Society, Village Marunji, Hinjewadi, Pune 41105	Jointly held Anita Kishore & Kishore Shreedharan Rs 45 Lakhs
3.	Row House No 1, Divya Hilltop Cottages, Village Nangargaon, Near Swami	Anita Kishore Rs 85 Lakhs

Sr. No.	Description of Property	In the name of / Current Value (Rs.)
	Samarth Mandir, Lonavala, Pune 410401.	
4.	Flat No.2, Ground Floor, Sunrise Apartments, 7-Bunglows, Andheri (West), Mumbai 400061	Kishore Shreedharan Rs 2.35 Crores (vested right bequeathed under the Will of the father of the Respondent no. 3)

Movable Properties : Bank Accounts

Sr. No.	Name of the Bank	Account Number	In the name of
1	State Bank of India	10865837064	Anita Kishore

Sr. No.	Name of the Bank	Account Number	In the name of
2	Bank of Baroda	76360100000914	Anita Kishore
3	ICICI Bank	333801001564	Anita Kishore
4	ICICI Bank	028101003098	Kishore Shreedharan

Movable Properties : Investments

a) Petitioner's Provident Fund retained with Indian Oil Corporation Ltd.

b) Equity Shares standing in the name of Petitioner and the Respondent No. 3 in ICICI Direct Trading account No 8510151411

c) Amount deposited by the Petitioner in Sr. Citizen scheme in Bank of Baroda

d) Gold Jewelry belonging to the Petitioner.

e) Investments held jointly by the Petitioner and the Respondent No. 3 in Mutual Funds with M/s. NJ Investments & M/s. Wealth Booster

8. Considering the legal and factual position, more particularly, the Report submitted by the Medical Board of Sir J.J. Group of Hospitals, we do not have any hesitation in appointing the Petitioner as the legal guardian of the person and properties of her husband Kishore. It is made clear that she is appointed as legal guardian of said Kishore alone and not jointly with Respondent No.4 as sought in the prayers. We are not impressed with the reasoning of Mr. Agiwal regarding the necessity of the Respondent No.4 to be appointed legal guardian of said Kishore jointly with the Petitioner, since the Petitioner and said Kishore having executed a joint Will.

9. We thus, appoint the Petitioner as the legal guardian of Shri Kishore. She shall also act as legal guardian of his movable and immovable properties subject to following conditions:

(a) The Petitioner may draw on the joint account in the Banks held in the name of Shri Kishore singly and jointly with herself. The Petitioner shall not effect any transfers, gifts or other distributions to herself or to any other family members, save and except for the needs of Shri Kishore as permitted herein above, without prior leave of the Court.

(b) The Petitioner is also permitted to manage the immovable

property described herein above or deal with it in any manner, in the best interest of Shri Kishore. The Petitioner is, however, not permitted to transfer or alienate the immovable properties without the consent of this Court or a Court of competent jurisdiction. All or any income from the said property shall be deposited in the saving bank account with the aforesaid Bank/s. In case circumstances arise, where the Petitioner is required to transfer any immovable properties of Shri Kishore, the Petitioner is at liberty to make an Application to this Court or a Court of competent jurisdiction and seek permission for the same.

10. Petition stands disposed off in the aforesaid terms. In view of above order, Interim Application also stands disposed off.

11. All parties to act on an authenticated copy of this order.

(DR. NEELA GOKHALE, J.) (REVATI MOHITE DERE, J.)

SHAMBHAVI NILESH SHIVGAN

Digitally signed by SHAMBHAVI NILESH SHIVGAN
Date: 2025.03.21 18:36:22 +0530