

Sharayu Khot.

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

GUARDIANSHIP PETITION NO. 7 OF 2025

Swati Patel

...Petitioner

And

Gaurav Patel

Ms. Devashri C. Karandikar i/by Mr. Saurabh M. Railkar for the
Petitioner.

CORAM : R.I. CHAGLA J

DATE : 25 June 2025

ORDER :

1. By this Guardianship Petition, the Petitioner is seeking her appointment as Guardian of her son Gaurav Rajeshkumar @ Rajesh Patel (referred to as “**the said ward**”).

2. The Petitioner is also seeking appointment as Guardian of the said ward, in respect of his movable and immovable property, listed at Exh.G and Exh.H to the Petition and for taking all decisions necessary and incidental for the welfare and benefit of the said ward.

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3. Further, consequential relief is sought with regard to the property of the said ward.

4. The Petitioner has stated that she was married to one Rajesh @ Rajeshkumar Manibhai Patel on 28th April 1990 at Valsad District in the State of Gujrat. There were two male issues as a result of the said marriage. The 1st male issue being Gaurav Rajesh Patel, born on 27th January 1991 and 2nd male issue being Swaraj Rajesh Patel, born on 29th December 1995. Copy of the birth certificate and Aadhar Card of 1st and 2nd male issues have been annexed at Exh.B and Exh.C to the Petition.

5. The Petitioner has stated that her elder son, Gaurav Rajesh Patel (“the said ward”) has been afflicted by mental disability since birth. The Petitioner has relied upon the Certificate of Mental Retardation for Government Benefits bearing No. ‘358502’ dated 22nd December 2016 issued by the Government of Maharashtra. The said certificate refers to the said ward suffering from 75% disability which is noted to be ‘permanent, non-progressive, not likely to improve’. The said Certificate has been annexed at Exh.D to the Petition.

6. The Petitioner has stated that her husband Rajesh @ Rajeshkumar Manibhai Patel expired in Mumbai on 30th March 2021. The Petitioner has relied upon his death certificate at Exh.F to the Petition.

7. The Petitioner has submitted that following the demise of her husband, the Petitioner was constrained to file necessary proceedings for seeking grant of Letters of Administration in her favour, in order to enable her to administer the estate and the properties of her late husband. The Petitioner states that she as the heir of her deceased husband was also required to undertake necessary steps with respect to filing of Petition for grant of Succession Certificate with respect to debts and securities belonging to her late father in law – Manibhai Chhanabhai Patel. The Petitioner has accordingly, initiated steps for filing the said proceedings before this Court for grant of Letters of Administration and for Succession Certificate.

8. The Petitioner has stated that the said ward due to the degree and extent of the condition which he is suffering from is rendered incapable of engaging in regular course of activities

including undertaking independent financial and legal obligations, managing his own affairs, and otherwise taking care of himself. The Petitioner is the only surviving parent of the said ward and as such required to take care of the welfare of the said ward.

9. The Petitioner has submitted that the said ward being the son and heir of the Petitioner's late husband, would be entitled to a share in the property and credits belonging to the Petitioner's late husband at the time of his death, which includes movable as well as immovable property. The Petitioner has further submitted that the said ward is entitled to a share in the securities and debts belonging to the father in law of the Petitioner. This is in view of the Petitioner's deceased husband being one of the heirs of his father having died intestate. Thus, the said ward is entitled to 1/3rd share in the property and credits belonging to his father at the time of his death. In addition, the said ward is entitled to 1/9th share in the property and credits belonging to the Petitioner's father in law at the time of his death. The necessary particulars of the property and credits are provided in detail at Exh.J and Exh.H to the Petition.

10. The Petitioner has submitted that the said ward

resides with the Petitioner and the Petitioner alone takes care of the said ward. The Petitioner has submitted that in order to enable her to adequately care for and/or manage all affairs including the financial and legal affairs of the said ward, so as to ensure the benefit and protection of the interest of the said ward, it is necessary to declare the Petitioner as guardian of movable and immovable properties of the said ward. Accordingly, the present Petition has been filed.

11. Having considered the averments in the Petition as well as noting that the said ward is the son of the Petitioner and suffering from the mental retardation as certified by the Government of Maharashtra having issued Certificate bearing No. '358502' dated 22nd December 2016, the present Petition is maintainable under Section 7 of the Guardianship and Wards Act, 1890.

12. The Petitioner being the mother of the said ward is in a position to take care of the welfare of the said ward as has been submitted by her. The said ward also has a 1/3rd share in the property and credits belonging to the Petitioner's late husband at the time of his death, which as aforementioned is detailed at Exh.G to the Petition. The said ward is also entitled to 1/9th share in the

property and credits belonging of the Petitioner's late father in law at the time of his death, which has been detailed at Exh.H to the Petition. The Petitioner has filed the proceedings for grant of Letters of Administration before this Court with regard to the property and credits belonging to her late husband as well as to the Succession Certificate belonging to the father in law.

13. In view thereof, the prayer sought for in the Petition requires to be granted, as in my view, this would be in the interest of said ward, considering that the said ward is totally dependent on the care of his mother, i.e. the Petitioner.

14. In view thereof, the Petition is made absolute in terms of prayer clauses (a) to (e), which read thus :-

“a. appoint the Petitioner as the Guardian of Gaurav Rajeshkumar @ Rajesh Patel, in respect of his person, and also his moveable and immoveable property, listed herein at Exhibit – ‘G’ and Exhibit – ‘H’ and take all such decisions necessary and incidental to the for welfare and benefit of the said Gaurav Rajeshkumar @ Rajesh Patel;

- b. *declare the Petitioner as the Guardian of Gaurav Rajeshkumar @ Rajesh Patel, in respect of his person, and also his moveable and immoveable property, listed herein at Exhibit – ‘G’ and Exhibit – ‘H’ and take all such decisions necessary and incidental to the for welfare and benefit of the said Gaurav Rajeshkumar @ Rajesh Patel;*
- c. *declare, appoint, and hold the Petitioner entitled to take decisions regarding the lease, sale, mortgage, licensing of the immoveable property, entering into registered agreements or deeds relating to or ancillary to redevelopment of immoveable property, or such other and further actions as may be required to be undertaken by the Petitioner in her capacity as the Guardian of the said Gaurav Rajeshkumar @ Rajesh Patel in respect of immoveable property to which the said Gaurav is entitled in such shares or to such extent as applicable; or where such property is sought to be leased, sold, mortgaged, licensed, purchased, or acquired in any other form, whether perpetually, or for a limited period of time, whether exclusively in the rights/ title/ interest of her said son, or where the Petitioner’s said son Gaurav is having rights/ title/ interest to a limited/ partial extent.*
- d. *declare and hold the Petitioner entitled to take decisions regarding the sale, reinvestment, mortgage,*

pledge, hypothecation, lien, charge, entering into registered agreements or deeds relating to or ancillary to moveable property, or such other and further actions as may be required to be undertaken by the Petitioner in her capacity as the Guardian of the said Gaurav Rajeshkumar @ Rajesh Patel in respect of the moveable property to which the said Gaurav is entitled in such shares or to such extent as applicable.

- e. *declare and hold the Petitioner entitled to take decisions regarding the person of her said son Gaurav, including but not limited to the decisions as to the latter's medical decisions, maintenance, care, or such other and further actions as may be required to be undertaken by the Petitioner in her capacity as the Guardian of the said Gaurav Rajeshkumar @ Rajesh Patel in respect of the person of her said son Gaurav."*

15. The Petition is accordingly, disposed of.

16. There shall be no order as to costs.

[R.I. CHAGLA J.]