Sharayu Khot.

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

INTERIM APPLICATION NO. 665 OF 2025

IN

GUARDIANSHIP PETITION NO. 4 OF 2021

Pankaj Kantilal Solanki ...**Applicant / Petitioner**

Versus

Smt. Vimla Popatlal Jain & Ors. ...**Respondents**

Ms. Jahnavi Vora i/by Yashpal Jain for the Applicant / Petitioner.

CORAM : R.I. CHAGLA J

DATE : 25 June 2025

ORDER :

1. This Interim Application has been taken out in disposed of Guardianship Petition No. 4 of 2021.

2. The Applicant by this Interim Application, has sought permission to sell and dispose of the 50% share of his deceased sister in flat bearing No. 112, B Wing, Shankheshwar Darshan Co. Op. Housing Society Limited, Sheth Motisha Lane, Mazgaon, Mumbai –

400 010 ("**the said property**") and the proceeds representing the said 50% share be allowed to be deposited in this Court by the Applicant to be invested in a Nationalised Bank in a fixed deposit account in equal proportions in the individual names of the deceased's minor children, i.e. Heer Ketan Jain and Tiya Ketan Jain ("**the said minors**").

3. Further relief is sought that the fixed deposit accounts be released to the said minors on their attaining the age of majority.

4. The Applicant is the maternal uncle of the said minors. Guardianship Petition No. 4 of 2021 had been filed by the Applicant for appointment of the Applicant as guardian of the said minors, whose parents namely Ketan Popatlal Jain and Smt. Rinku Ketan Jain had expired in Mumbai on 10th December 2017 and 30th June 2020 respectively. The Applicant's sister is the said Smt. Rinku Ketan Jain, mother of the said minors. Guardianship Petition was also for appointment of the Applicant as guardian in respect of certain immovable and movable properties specified in Schedule to the said Petition. The said minors have been in the custody of the Applicant and are presently residing with him.

5. By an order dated 15th November 2021 read with order dated 14th November 2022, this Court was pleased to appoint the Applicant as Guardian of the said minors and their properties, mentioned in the schedule to the said Petition.

6. The Applicant has submitted that the Guardianship Petition made mention of certain movable and immovable properties owned left behind by the said deceased parents of the said minors and one such immovable property described is the flat jointly owned by the deceased mother of the said minors and the father of the deceased mother and the Applicant, viz. Kantilal Santokchand Jain.

7. The present Application has been filed with regard to the said flat for which the said minors have 50% shares, which belonged to their deceased mother. The Applicant has submitted that the Applicant's father is 73 years of age and is joint owner of the said flat. The Applicant further states that the Applicant's father wishes to dispose of his 50% undivided joint right, title and interest in the said flat, as the said flat is lying vacant and unoccupied and 50% as aforementioned belonged to said minor's mother and upon her demise has come to the share of the said minors. The Applicant has

further stated that the Applicant's father requires his share of the proceeds received from the sale of the said flat for his personal use and expenses considering his advanced age.

8. The Applicant has stated that he along with his father have been approached by a prospective buyer, who desires to purchase the flat for an amount of Rs. 50 Lakh, which the Applicant and his father consider to be the fair market value of the said flat. The Applicant has submitted that the 50% amount realised on the sale of the said flat, i.e. share of the father of the Applicant as joint owner of the said flat may be given to him and the remaining 50% i.e. the share of the deceased mother of the said minors who was joint owner of the said flat may be deposited with the Prothonotary & Senior Master to be invested to the credit of the said minors in equal proportion in a Nationalised Bank in fixed deposit account.

9. The Applicant has submitted that the father of the Applicant - Kantilal Santokchand Jain has the Applicant and the deceased mother of the said minors, i.e. his son and daughter as his only Class I heirs. The deceased mother of the said minors left behind the said minors a her only Class I heirs.

10. Accordingly, it is submitted that no Consent Affidavits are required to be filed in support of the sale of the said flat and for the Applicant as the guardian of the said minors and their properties has no objection to the sale of the said flat.

11. Accordingly, the present Interim Application has been taken out.

12. I have considered the averments as well as noted that by order dated 15th November 2021 read with order dated 14th November 2022, the Applicant was appointed as Guardian of the said minors and their properties.

13. The Applicant's father Kantilal Santokchand Jain, being the 50% owner of the said flat and the said minors through the Applicant having balance 50% share in the said flat from their deceased mother, have expressed their desire to sell the said flat. They have identified a prospective buyer, namely one Mr. Nitin Chunnilal Jain who has approached them expressing his desire to purchase the said flat, for an amount of Rs. 50 Lakh which they consider to be fair market value of the said flat.

14. In that view of the matter, the relief sought for viz. sale of the said flat as mentioned in prayer clause (a) of the Interim Application and for the 50% share of the sale proceeds to be deposited in a fixed deposit account for the benefit of the said minors' to be released to the said minors at their attaining age of majority, requires to be granted.

15. At this stage, the learned Counsel for the Applicant / Petitioner states that the order dated 27th March 2025 passed by this Court has been complied with and has tendered the Share Certificate along with copy thereof which shows that the share of the deceased mother of the said minors has been transferred to the said minors. By keeping a copy of the Share Certificate on record, the original Share Certificate is returned to the learned Counsel for the Petitioner.

16. The learned Counsel for the Applicant / Petitioner has further submitted that in compliance with the order dated 27th March 2025, the Valuation Report valuing the said flat has been prepared and filed in this Court in sealed cover. After desealing the cover, the contents of the Valuation Report is noted. In view of the

valuation of the said flat arrived at by the valuer, the purchase consideration offered for the said flat appears to be reasonable and deserves acceptance.

17. Accordingly, prayer clauses (a) and (b) of the Interim Application are granted, which read thus :-

> "*a. that this Hon'ble Court be pleased to allow the Applicant to sell and dispose of the 50% shares of the deceased in flat bearing no. 112, B Wing, Shankheshwar Darshan Co. Op. Hsg. Society Ltd. Sheth Motisha Lane, Mazgaon, Mumbai – 400 010 and the proceeds representing the said 50% share be allowed to be deposited in this Hon'ble Court by the Applicant to be invested in a Nationlised Bank in a Fixed Deposit Account in equal proportions in the individual names of the said minor children, i.e. Heer Ketan Jain and Tiya Ketan Jain, respectively;*
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> *b. that the maturity amount of the said Fixed Deposit Accounts be released to the minor children on their attaining the age of majority.*"

18. Interim Application is accordingly, disposed of.

[R.I. CHAGLA J.]