

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

GUARDIANSHIP PETITION NO. 8 OF 2026

In the matter of Guardianship under
Clause XVII of Letters Patent Act, 1866

And

In the matter of Guardianship of Ms.
Bhavana Vishwanath Date, aged about
59 years, residing at 204/B Wing,
Navasamaj CHS, Gujarati Road,
Navapada, Vile Parle East, Mumbai –
400057, who is currently suffering from
mental illness.

NIMESH NARHAR KHADILKAR AND ANOTHER)...PETITIONERS

Mr.Aseem Naphade a/w. Mr.Abhishek Karnik, Mr.Suyash Gadre, and
Ms.Srija Singh i/by Alatheia Law LLP, Advocate for the Petitioners.

CORAM : ABHAY AHUJA, J.

**DATE : 30th APRIL 2026
(IN CHAMBER)**

P.C. :

1. Pursuant to earlier orders of this Court, today when the matter is called out in Chamber, Mr.Aseem Naphade along with Mr.Abhishek Karnik and Mr.Suyash Gadre, appear for the Petitioners and submit that the amendments as permitted by this Court on 16th April 2026 have been carried out.

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2. In the facts of the present case, as recorded earlier, Ms.Bhavana Vishwanath Date (“Bhavana”), who was on the date of the Petition, 58 years old, suffers from Schizophrenia (Continuous). Bhavana’s father and mother passed away in 2016 and 2006 respectively as also her sister passed away in 1981. The Petitioners, who are attending to her needs and taking care of her are the maternal cousins being the children of brother of Bhavana’s mother.

3. Bhavana is a Commerce graduate and was working with Life Insurance Corporation (LIC) from about 1986 till about 2025. Bhavana, it has been stated, has been suffering from Schizophrenia for the last about 25 years and had been under continuous psychiatric treatment of Dr.Bhatavdekar. Bhavana stopped attending her services with the LIC in April 2025 as her condition deteriorated and she had to be moved from her residence in Vile Parle, Mumbai and was admitted at Insight Mind Care Centre, Thane wherein she was diagnosed with experiencing severe auditory hallucinations and suspiciousness with decreased self care and was discharged after an improvement in her behavior. However, as a consequence of her violent behavior and other consequential symptoms, Bhavana was subsequently shifted to Humanity Clinic, Thane which is an assisted care facility where she is

residing presently. Bhavana, it has been stated, was incapable of taking care of her basic personal needs and requires constant care and attention in the performance of even the simplest bodily functions and was unable to understand the nature, extent and probable consequences of actions or take informed decisions. That, therefore, this Petition has been filed by the Petitioners. It has also been pointed out to this Court that the Petitioners have spent approximately Rs.4,20,343/- till the filing of the Petition from their own funds as has been, as also set out in the Petition and I have no reason to disbelieve the same.

4. By order dated 27th February 2026, this Court had, after hearing the learned Counsel for the Petitioners, before passing any orders found it necessary to direct the Superintendent of the Regional Mental Hospital, Thane to constitute a Medical Board consisting of experts in the field of diagnosis and treatment of Schizophrenia to visit and examine Bhavana and to submit a report.

5. By order dated 9th April 2026, the report dated 25th March 2026 of the Regional Mental Hospital at Thane concluding the finding of the Medical Board that Bhavana Vishwanath Date suffered from

Schizophrenia (Continuous) and therefore recommended appointment of Guardian and Manager was taken on record by this Court.

6. The learned Counsel appearing for the Petitioners have submitted that in view of the report by the Board of the Regional Mental Hospital at Thane conclusively declaring the condition of Bhavana as suffering from Schizophrenia (Continuous) which requires appointment of guardian of her person as well as property as Bhavana suffers from a chronic, persistent mental illness incapable of managing her own person or property due to absence of insight and presence of active psychotic symptoms. The learned Counsel submit that the Hon'ble Supreme Court in the case of *Prakash Nayi alias Sen vs. State of Goa*¹ has after considering various treatises on Schizophrenia observed that Schizophrenia is an overpowering mental illness. Also referring to a decision of this Court in the case of *Vahbiz Pervez Dumasia & Niloufer Pervez Dumasia*² learned Counsel submit that this Court after considering the definition of mental illness under Section 2(s) of the Mental Healthcare Act, 2017 as well as Section 2(q) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, has observed that lunacy can also refer to

1 (2023) 5 Supreme Court Cases 673

2 2025:BHC-OS:8202 (Guardianship Petition No.8 of 2025 decided on 8th May 2025)

mental illness, and that, therefore, since under Clause XVII of the Letters Patent Act, 1866 (the “Letters Patent”) under which jurisdiction this Petition has been filed as this Court has jurisdiction to exercise power and authority with respect to the persons and estate of infants, idiots and lunatics within the Bombay Presidency and considering that Bhavana was, prior to her being taken for treatment to Humanity Clinic in Thane, residing at her residence in Vile Parle, within the Bombay Presidency, this Court may exercise jurisdiction and appoint the Petitioners, who are the maternal cousins of Bhavana, as Guardians of her person and property in terms of prayer clause 17(a) to (c), subject to the necessary undertakings and reportings that this Court may deem appropriate to impose on the Petitioners.

7. I have heard the learned Counsel and also noted the report dated 25th March 2026 of the Medical board by the Regional Mental Hospital at Thane, which was taken on record on 9th April 2026, which clearly indicates that Bhavana suffers from Schizophrenia (Continuous). The Medical Board constituted pursuant to the order of this Court dated 27th February 2026 has also professionally recommended that since Bhavana suffers from chronic and persistent mental illness due to the absence of insight and presence of active psychotic symptoms due to

which she is incapable of managing her own person or property and considering the lack of immediate family support, being unmarried, and her inability to manage her own person as well as her finances or properties, she would require a Court appointed Guardian and Manager.

8. It is not in doubt from the submissions and the elucidation of judgments by the learned Counsel that Schizophrenia is a mental illness and mental illness can be characterized as lunacy. Under Clause XVII of the Letters Patent, this Court can exercise jurisdiction on the person and estate of a lunatic. The Petitioners are well meaning cousins, who have already spent over Rs.4,00,000/- in Bhavana's treatment and care and therefore, I am inclined to appoint them as Co-Guardians of the person and property of Bhavana in terms of prayer clause 17(a) to (c) which read thus which I hereby do :

“(a) This Hon’ble Court be pleased to appoint the Petitioners, acting jointly and/or severally, as the Guardians of the Ms. Bhavana Vishwanath Date and the Managers of the properties of Ms. Bhavana Vishwanath Date;

(b) This Hon’ble Court be pleased to declare that as the guardians of Ms. Bhavana Vishwanath Date, the Petitioners, acting jointly and/or severally, are authorized to do all acts,

deeds and things for the proper medical treatment, nursing care, welfare and benefit of Ms. Bhavana Vishwanath Date;

*(c) This Hon'ble Court be pleased to declare that as managers of Ms. Bhavana Vishwanath Date, the Petitioners, acting jointly and/or severally, are authorized to take all such decisions necessary and incidental for the welfare and benefit of Ms. Bhavana Vishwanath Date, and maintenance of her property and assets, including to deal with the properties set out as **Exhibit-"I"** hereto, and to utilize the proceeds thereof solely for the benefit and upkeep of Ms. Bhavana Vishwanath Date, including the power to:*

- (i) operate all bank accounts, PPF account, and locker in the name of Ms. Bhavana Vishwanath Date;*
- (ii) deal with shares, bonds, debentures, mutual funds and insurance and other securities in the name of Ms. Bhavana Vishwanath Date;*
- (iii) deal retirement processes in her office and to deal with post retirement funds like Provident Fund, Gratuity Fund, and others if any.*
- (iv) take possession and charge of all moveable and immovable properties of Ms. Bhavana Vishwanath Date;*
- (v) manage, sell, transfer or otherwise deal with Ms. Bhavana Vishwanath Date's properties;*
- (vi) invest the monies of Ms. Bhavana Vishwanath Date;*
- (vii) utilize the monies of Ms. Bhavana Vishwanath Date for her proper upkeep and for fulfilling her needs and requirements;*

- (viii) represent Ms. Bhavana Vishwanath Date before all persons, authorities, civic bodies;*
- (ix) sign where required as the guardian(s) of Ms. Bhavana Vishwanath Date;*
- (x) sign all deeds, documents, cheques and instruments as guardian(s) of Ms. Bhavana Vishwanath Date; and*
- (xi) file returns, etc., before the tax authorities;*

9. The aforesaid appointment is subject to the undertaking to be filed within a period of one week, as per the format annexed to this order *inter alia* to do all acts, deeds and things necessary for Bhavana's proper treatment, nursing care, upkeep, welfare and benefit as well as to utilize all the monies and estates of Bhavana for her proper treatment, nursing care, upkeep, welfare, benefit and fulfilling her needs and requirements and also to furnish Statement of Accounts to the Commissioner for taking Accounts setting out the details of income and expenditure on a quarterly basis and to remain present in Court as and when called.

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

(ABHAY AHUJA, J.)

FORMAT OF THE UNDERTAKING BY GUARDIAN

I, _____, son / daughter of _____, residing at _____, having applied to be appointed as a Guardian and / or Manager of the person and / or property of _____, do hereby solemnly state and affirm that vide order dated 30th April 2026, this Hon'ble Court was pleased to appoint me as the Co-Guardian and Manager of the person and the property of Ms.Bhavana Vishwanath Date ("Bhavana") and in furtherance of the same, I am furnishing this undertaking as under:

1. I undertake to discharge my responsibilities as Bhavana's Guardian and Manager to the best of my ability and only to the extent as has been permitted by this Hon'ble Court.

2. I undertake to take decisions as are necessary and incidental only for Bhavana's welfare and benefit including the maintenance of her assets and the online and offline operation of the bank accounts and the utilization of the money strictly for the purposes of her proper treatment, nursing care, upkeep, welfare, benefit and fulfilling her needs and requirements.

3. I am aware that I am in a fiduciary relation to Bhavana and I shall not make any profit for myself out of my office.

4. I undertake that I shall deal with Bhavana's property as carefully as a person of ordinary prudence would deal with it as if it was my own and if I fail to do so, I shall be liable to make good with the loss caused to Bhavana.

5. I undertake that I shall not mortgage, charge, sell, exchange or give away any of Bhavana's property without the prior permission of this Hon'ble Court nor shall I lease/license any part of the same without the permission of the Court.

6. I undertake to apply the income of Bhavana's property for her treatment, care, welfare, upkeep, maintenance and benefit only for her or as directed by this Hon'ble Court from time to time.

7. I undertake to take decisions in Bhavana's best interest to ensure that the aforesaid powers will be used only towards Bhavana's treatment, care, welfare, upkeep, maintenance (ongoing and future) and well being.

8. I undertake to submit an update of the inventory of all of Bhavana's property within a period of one month and then at regular quarterly intervals to the Commissioner for Taking Accounts.

9. I undertake to file accounts in the office of the Commissioner for Taking Accounts of this Hon'ble Court once every three months by the 10th of third month.

10. I undertake to get my accounts passed by the Commissioner for Taking Accounts of this Hon'ble Court.

11. I undertake to not remove Bhavana from the present residence without permission of this Court.

12. I undertake that my responsibilities as the Guardian and / or Manager continue to remain subsisting until I am discharged by this Hon'ble Court.

13. I undertake to apply to this Hon'ble Court for directions as and when required.