

KABC010299182025



IN THE COURT OF THE LVIII ADDL. CITY CIVIL &
SESSIONS JUDGE, BENGALURU (CCH.59)

P r e s e n t:

Smt.Sujata.M.Sambrani, B.Com. LL.B.,
LVIII Addl. City Civil & Sessions Judge,
Bengaluru.

Dated this the 4th day of July, 2026

Misc.No.1386 / 2025

Petitioners:-

1. Miss.Sunitha C Kulkarni,
D/o. Late V.H.Kulakarni & Late
Chandrika Kulkarni,
Aged about 55 years,
R/at No.592, 2nd Floor, 24th Cross,
Banashankari 2nd Stage,
Bengaluru-560 070.

Rep. by her next friend and maternal
aunt
Smt. Vidya A Sharma.
2. Smt.Vidya A Sharma,
Age about 69 years,
W/o. Arun C Sharma,
R/at 419/11, 4th A Main,
5th A Cross, Sector A,
Yelahanka New Town,
Bengaluru-560 064.
3. Smt.Sushma R Desai,
Aged about 60 years,

R/at No.592, 3rd Floor,
24th Cross, Banashankari 2nd Stage,
Bengaluru-560 070.

(By Sri.B.N.Jagadeesh Babu, Adv.)

- Vs -

Respondent :- - NIL -

ORDER

The petitioners have filed this petition under Section 14 of The Rights of Persons with Disabilities Act, 2016, seeking to appoint the petitioner No.3 as the guardian of the person and property of the petitioner No.1 by discharging petitioner No.2 from the guardianship of petitioner No.1.

2. Description of the petition schedule properties are as under:

SCHEDULE 'A' PROPERTY

(Larger property in which schedule B property is situated)

All that piece and parcel of property bearing No.592, Corporation PID No.56-19-592, 24th Cross, Banashankari 2nd Stage, Bengaluru-560 070, measuring east to west 40 feet and north to south 65 feet, in all measuring 2600 sq. ft., together with stilt, ground, first, second and terrace floors constructed thereon and bounded on:

East by – Site No.593,

West by – Site No.591,
North by – Site No.587,
South by – Road.

SCHEDULE – B PROPERTY

All that piece and parcel of a two-bed room residential apartment unit bearing No. S-01, in the second floor, BBMP Municipal No.592/2, PID No.56-19-592/2, constructed on the schedule 'A' property with a super built up area of 1000 Square Feet with one car parking space in the stilt floor along with undivided proportionate right, title and interest in the 35% of share of Smt. Chandrika Kulkarni in the land under the development scheme along with 50% right out of 35% share of the Terrace Area of Smt. Chandrika Kulkarni under the development scheme along with the right to common stair case, lift and all other common amenities, fixtures, fittings, electricity and water connections etc., provided in the entire building.

SCHEDULE - C PROPERTY

Bank Account bearing No. 7538434551 in the Indian Bank - BSK 2nd Stage Branch, IFSC No. IDIB000B074. (Branch address: No.690, 24th Cross, 14th main, Banashankari 2nd Stage, Bengaluru – 560070.

3. In the petition, the petitioners have submitted that, they are residing in the above address as stated in the cause title. The petitioner No.1 is a person of unsound mind and the petitioner No.2 is the maternal aunt & guardian of the Petitioner No.1 and the petitioner No.3 is the cousin sister of petitioner No.1 (daughter of elder aunt of Petitioner No.1).

4. It is submitted that, one Late Sri. V.H Kulkarni and Late Smt. Chandrika Kulkarni are the father and mother of the 1st petitioner. The father Sri. V.H Kulkarni died on 26.02.1983 and the mother Late Smt. Chandrika Kulkarni died on 23.01.2023, leaving behind the 1st petitioner as their sole surviving legal heir. Since the petitioner No.1 is a person of unsound mind, in-capable of taking care of herself, unable to manage her personal affairs and earn her livelihood, she was in care and custody of her maternal aunt, the 2nd petitioner. The Petitioner No.2 on behalf of Petitioner No.1 as her guardian filed a suit in O.S.No.4220/2018 for partition on the file of this Court. The said suit was ended in a compromise on 04-07-2018. As per the said compromise, the 1st petitioner has been allotted with a two-bed room residential apartment unit bearing No. S-01, in the second floor, BBMP Municipal No.592/2, PID No. 56-19-592/2, situated at 24th Cross, Banashankari 2nd stage, Bengaluru (i.e Schedule B Property to the said compromise) which is more fully described & scheduled hereunder and herein after referred to as the Schedule 'B' Property and 1st petitioner

mother Smt.Chandrika Kulkarni has been allotted with Schedule C Property to the said compromise. The copy of compromise petition is herewith produced for perusal of this court.

5. It is further submitted that, the petitioner No.2 being the maternal aunt of the Petitioner No.1, she has been taking care of petitioner No.1 to the best of her ability as a guardian. However, due to her old age and health issues, she is not in a position to continue as guardian and to provide the necessary care and attention required for the welfare of Petitioner No.1. Therefore, she requested petitioner No.3, who is petitioner No.1's cousin sister i.e., elder aunt's daughter to look after and take of the petitioner No.1. The petitioner No.3, who has love and affection towards petitioner No.1 has agreed to take care and be a guardian of petitioner No. 1. The petitioner No.3 Smt. Sushma R Desai is a close family member of Petitioner No.1 and well-acquainted with the needs of Petitioner No.1 and has expressed her willingness and readiness to take guardianship responsibilities. She is

financially stable, physically and mentally fit, and she is competent to act as guardian.

6. It is further submitted that, Petitioner No.2 Smt. Vidva. A. Sharma has voluntarily executed a No Objection Certificate (NOC) in favour of 3rd petitioner Smt. Sushma. R. Desai to transfer guardianship in favour of Petitioner No.3. The copy of No-Objection Certificate (NOC) Dt:01/07/2025 is herewith produced for perusal of this court. In view of the above, it is in the best interests of Petitioner No.1 that Petitioner No.3 be appointed as her guardian in place of Petitioner No.2. The Petitioners respectfully seek this Court's intervention for the same. Hence, the petitioners have prayed to appoint the petitioner No.3 as the guardian of the person and property of petitioner No.1 by discharging petitioner No.2 from the guardianship of petitioner No.1 in view of the aforesaid circumstances of the case in the interest of justice and equity.

7. As there are no respondent, the petitioners have published notice in daily Newspaper "Indian Express" dated

04.12.2025 about the claim made by them in this petition. In spite of wide publication, none appeared and filed any objections to this petition.

8. In order to prove the case, the petitioner No.2 examined as PW.1 and petitioner No.3 examined as PW.2 and got marked 16 documents at Ex.P.1 to Ex.P.16. Since there are no respondents, the cross-examination of PW1 was taken as nil.

9. Heard and perused.

10. The points that arise for my consideration are :

1. Whether the petitioners prove that the ward/1st petitioner is suffering from intellectual disability and she is unable to take legally binding decisions on her own ?
2. Whether the petitioner No.3 is entitled for grant of Guardianship Certificate, as prayed in this petition?
3. What order?

11. My findings to the above points are as under:

Point No.1 : In the **Affirmative**,
Point No.2 : In the **Affirmative**,
Point No.3 : As per final order,
for the following: -

REASONS

12. **POINT NOS.1 & 2** : - Since both these points are interlinked with each other, they are taken up together for discussion in order to avoid repetition of facts and evidence.

13. In order to prove the case, the 2nd petitioner Smt.Vidya A Sharma has filed an affidavit in lieu of her examination-in-chief as PW1. In her affidavit, she has reiterated the petition averments. In her evidence, she has stated that, as the maternal aunt of petitioner No.1, she has cared for her as guardian. Due to old-age and health issues, she is unable to continue, hence, she requested the petitioner No.3 to assume responsibilities of petitioner No.1, who has affection for petitioner No.1 has agreed to act as her guardian.

14. Smt.Sushma R Desai, the petitioner No.3 has filed affidavit in lieu of her examination-in-chief and examined as PW.2. In her affidavit evidence, she has reiterated the petition averments. In support of her oral evidence, PW2 has produced 16 documents which are marked as Ex.P1 to Ex.P16.

15. PW.2 in support of her oral evidence, she has produced the disability certificate of petitioner No.1 as per Ex.P.1, wherein, it certifies the mental disability of petitioner No.1. The Ex.P.2 notarised copy of disability ID of petitioner No.1, wherein, it discloses the intellectual disability of petitioner No.1.

16. The Ex.P.3 is the death certificate of Late Sri.V.H.Kulkarni/father of 1st petitioner, died on 26.02.1983. the Ex.P.4 is the death certificate of Late Smt.Chandrika Kulakarni/mother of the 1st petitioner, died on 23.01.2023. The Ex.P.5 to Ex.P.7 are the notarised copies of aadhar cards of petitioner No.1, 2 and 3.

17. The Ex.P.8 to 11 are the certified copy of the plaint, IA, compromise petition, order sheet in O.S.No.42208/2018. On perusal of Ex.P.10 memorandum of settlement under Section 89 r/w Rules 24 and 25 of the Karnataka Civil Procedure (Mediation) Rules, 2007, it reveals that, the Petitioner No.2 on behalf of Petitioner No.1 as her guardian filed a suit in O.S.No.4220/2018 for partition on the file of this Court. The said suit was ended in a compromise on 04-07-2018. As per the said compromise, the 1st petitioner has been allotted with a two-bed room residential apartment unit bearing No. S-01, in the second floor, BBMP Municipal No.592/2, PID No. 56-19-592/2, situated at 24th Cross, Banashankari 2nd stage, Bengaluru (i.e Schedule B Property to the said compromise) and 1st petitioner mother Smt.Chandrika Kulkarni has been allotted with Schedule C Property to the said compromise.

18. The Ex.P.12 is the NOC affidavit dated 01.07.2025 executed by the petitioner No.2 in favour of petitioner No.3 for transfer of guardianship of petitioner No.1, the Ex.P.13 is the

notarized copy of account details of petitioner No.1 held in Indian Bank, the Ex.P.14 is the Uttara patra, the Ex.P.15 is the endorsement issued by the Revenue Officer, BBMP and the Ex.P.16 is the notarized copy of family tree affidavit. On perusal of the same, ward 1st petitioner Kum. Sunitha C Kulkarni is the only legal heir of Late Sri.Venkatesh Kulkarni and Late Smt.Chandrika Kulkarni @ Vasundhara.

19. As per Ex.P.12 the NOC affidavit dated 01.07.2025 executed by the petitioner No.2 in favour of petitioner No.3 for transfer of guardianship of petitioner No.1, wherein, the petitioner No.2 has stated that, the petitioner No.1 is her sister's daughter. By birth, ward petitioner No.1 is intellectually disabled. After the death of parents of ward petitioner No.1, till now she has taken care of ward petitioner No.2. Now due to her health issues, she is unable to take care of the petitioner No.1 and she intends to appoint petitioner No.3 as guardian of the ward petitioner No.1.

20. The medical evidence on record establish that, the ward is suffering mental / intellectual disability and she is

unable to take beneficial decision on her own. Accordingly, she needs caretaker from nearest relative or person, who is interested. Admittedly, the ward is unmarried and now she is under the care & custody of her aunt petitioner No.2.

21. On perusal of the oral & documentary evidence placed by PW1 and PW2, it is evident that the ward who is the daughter of their sister, is suffering from mental disability and she is unmarried. Earlier, the parents were taking care of the ward and after their demise, the petitioner No.2 is taking care of the ward. Now, the petitioner No.2 intends to appoint petitioner No.3 as the guardian of the ward due to her old age and health conditions.

22. The Ex.P16 is the family tree affidavit of the petitioner, which corroborates the testimony of PW1 and PW2 to prove the relationship between the ward and these petitioners.

23. Moreover, the 3rd petitioner is undertaking to look after the welfare of ward with utmost care and to do act for

her benefits. In spite of paper publication, none appeared before the Court and contested the matter. Under these circumstances, this Court is of the opinion that, there is no impediment to appoint petitioner No.3 as guardian on behalf of the ward with certain conditions during her life time. Therefore, the petitioner Nos.2 and 3 have made out sufficient grounds to appoint petitioner No.3 as guardian to the ward with certain conditions as per the provisions of Section 14 of the said Act. In view of the above reasons, I answer **point Nos.1 & 2 are in the Affirmative.**

24. **POINT NO.3:** In the result, for the reasons stated above, I proceed to pass the following: -

ORDER

The petition filed by petitioners under Section 14 of The Rights of Persons with Disabilities Act, 2016, is allowed.

The petitioner No.3 is appointed as guardian on behalf of the ward during her life time, subject to the following:

CONDITIONS

1. The petitioner No.3 is entitled to draw the pension benefits of the parents of the ward from the respective department and disburse the said amount to the ward.
2. The petitioner No.3 shall act which are necessary or reasonable and proper for the benefit of the ward or for the realization / protection or her benefits.
3. The petitioner No.3 is also permitted to open the Bank account and operate the same on behalf of the ward and to deposit and withdraw the amount and utilize the same only for the benefit & interest of the ward.
4. The petitioner No.3 is permitted to manage the day today affairs of movable and immovable property belongs to the ward and safe guard the interest of the ward.
5. The petitioner No.3 shall not misuse any amount for any other purpose, except for the interest & benefit of the ward.
6. If any transaction made, it should not be adverse to the interest and it should for the benefit of ward only.

(Dictated to the Stenographer Grade-III directly on the computer, typed and then corrected and pronounced by me on this 4th day of July, 2026)

(SUJATA.M.SAMBRANI)
LVIII Addl. City Civil & Sessions Judge,
Bengaluru.

ANNEXURE**LIST OF WITNESSES EXAMINED FOR PETITIONER: -**

PW.1	Smt.Vidya A Sharma.
PW.2	Smt.Sushma R Desai.

LIST OF DOCUMENTS MARKED FOR PETITIONER: -

Ex.P.1	Disability certificate of petitioner No.1.
Ex.P.2	Notarized copy of disability ID of petitioner No.1.
Ex.P.3	Death certificate of Sri.V.H.Kulkarni.
Ex.P.4	Death certificate of Late Smt.Chandrika Kulkarni.
Ex.P.5 to 7	Notarized copies of aadhaar cards of petitioner Nos.1 to 3.
Ex.P.8 to 11	Certified copies of the plaint, IA, compromise petition, order sheet in O.S.No.4220/2018.
Ex.P.12	NOC dated 01.07.2025 executed by petitioner No.2 in favour of petitioner No.3.
Ex.P.13	Notarized copy of account details of petitioner No.1 held in Indian Bank.
Ex.P.14	Uttara Patra.
Ex.P.15	Endorsement issued by Revenue Officer, BBMP.
Ex.P.16	Notarized copy of family tree affidavit.

**LIST OF WITNESSES EXAMINED & DOCUMENTS MARKED
FOR RESPONDENT: -**

- NIL -

(SUJATA.M.SAMBRANI)

LVIII Addl. City Civil & Sessions Judge,
Bengaluru.