

MHPU010180612023



Presented on : 01-11-2023
Registered on : 03-11-2023
Decided on : 07-07-2026
Duration : 2 Ys. 08 Ms. 06 Ds.

IN THE COURT OF DISTRICT JUDGE, PUNE
(Presided over by D. R. Shetty, District Judge – 12, Pune)

Civil M.A. No.979/2023
Exh. No.37

1. **Mrs. Ashwini Raju Nimablikar**
D/o Balasaheb Gaikwad
Aged about: 49 years,
Citizen of India,
Occupation: Service.
2. **Mr. Raju Kaluram Nimbalkar**
S/o Kaluram Nimbalkar
Aged about: 48 years,
Citizen of India,
Occupation: Service

Both Applicants Residential Address:
131/, Sopandeu, Wadgaon Shinde road,
Near Gajanan Mangal Karyalay,
P.S. Lohagaon, Dist. Pune
State: Maharashtra - 411047.

... Applicants

Versus

1. **Mrs. Kiran Vijaykumar Mishra**
2. **Mr. Vijaykumar Bhavendra Mishra**

Temporary Address :

R/at : C/o. Pawan Kumar Jha,
Survey No.84/2, Room No.13,
Near Corporation office, Katraj,
Pune – 411046.

Native Place : Uttarpradesh

...Respondents

**Application under Sections 7 and 8 of
the Guardians and Wards Act, 1890.**

Advocate for Applicants : Vishal Sonawane
Advocate for Respondents : Formal Parties

JUDGMENT
(Delivered on 7th July, 2026)

The applicants have filed this application under Sections 7 and 8 of the Guardians and Wards Act, 1890. According to the applicants, the minor named "Shivanjali", who was born on 02/11/2021, is left with them by her biological parents in June 2022 and told them to take care of the minor for 2 months as they were unable to take the minor to their native place in Uttar Pradesh due to some health issues. Thereafter, the applicants tried to contact the biological parents, but they were not traceable since June 2022. The said minor, Miss "Shivanjali", has been residing with them. Now, the love and affection has been developed with the minor girl "Shivanjali". The applicants are ready to give an undertaking before this Court that they are ready to return back the minor girl if the biological parents demand her custody. For the better future of the minor, the applicants want to enroll her in nursery school, and for that

purpose, an Aadhaar card is required. So, to prepare the Aadhaar card of the minor "Shivanjali", the applicants have filed this application to appoint them as the guardians of "Shivanjali" under Sections 7 and 8 of the Guardians and Wards Act, 1890.

2. In support of their application, the applicants have relied upon the birth certificate of "Shivanjali" issued by the Pune Municipal Corporation, Dhankawadi-Sahakar Nagar Ward, which shows that she was born on 02/11/2021 and her parents were Vijay Kumar Bhavendra Mishra and Kiran Vijay Kumar Mishra. The applicants have filed on record some documents, such as the report of Scrutiny Officer Miss V. M. Chincholkar of ICSW (Indian Council of Social Welfare) Pune, which is at Exh. 33. She has opined that applicant no. 2 is self-employed, who runs his business under the title 'Kshitij Homemaker' and earning an income of ₹4,98,400 as per the Income Tax Returns of the year 2022–23. The Income Tax Returns of the year 2023–24 also shows his annual income as ₹4,62,200. She has further opined that as per the medical certificates of applicant nos. 1 and 2, they are physically and mentally fit to be appointed as guardians.

3. Furthermore, the applicants have produced on record some documents showing that earlier, the applicants had filed an application for the adoption of minor "Shivanjali" as per the provisions of the Juvenile Justice Act, but due to technicalities, it was withdrawn. To this effect, the applicants have produced on record the order passed below Exh. 1 in Civil M.A. no. 88/2022

on 18/01/2024. In addition, the applicants have filed their affidavits at Exh. 5 and 5A, thereby disclosing all the facts narrated by them in the application. It is also clear from the record that the applicants have one son named Kshitij, who was born on 16/11/2010. The applicants have further produced on record copies of the Aadhaar cards of Vijay Kumar Bhavendra Mishra and Kiran Vijay Kumar Mishra. It is clear from these Aadhaar cards that these biological parents of the minor were residing at Katraj, Pune. As per this address, they are shown to be residing at Santosh Nagar, Katraj, C/o Pawan Kumar Jha, Corporation Office, Sawant Corner. The applicants had issued a notice of this application by publishing it in the daily "*Punya Nagari*" dated 26/03/2025 and daily "*Hindustan*" Hindi newspaper (widely circulated in the Kanpur area) dated 27/03/2025. The biological parents have not appeared in this matter. Moreover, the applicants have produced on record a notarized indemnity bond dated 05/10/2021 executed by the biological parents in their favour, which shows that the biological parents have given this minor child "Shivanjali" in their custody, and the applicants had agreed to take custody of the minor "Shivanjali" by following various rules of CARA (Central Adoption Resource Authority). Even, they had executed a notarized Memorandum of Understanding dated 05/10/2021, from which it is clear that the biological parents have given custody of the minor "Shivanjali" to the present applicants. As discussed above, the applicants had withdrawn the application filed under the provisions of the Juvenile Justice Act for adoption

due to some technical issues; therefore, now the applicants want to act as the guardians of minor "Shivanjali".

4. As per Section 7 of the Guardians and Wards Act, 1890, the District Court can appoint any person as a guardian if the Court is satisfied it is for the welfare of the minor. As per Section 8, sub-clause (a) of the Guardians and Wards Act, 1890, the person desirous of being or claiming to be the guardian of the minor can file an application for appointment as a guardian. As per Section 9 of the Guardians and Wards Act, 1890, since the minor is residing within the local jurisdiction of this Court, this Court has jurisdiction to entertain this application.

5. It is clear from the above discussions that the age of minor "Shivanjali" is now nearly more than 4 years. As this is the age to admit her into the school so, for her better future, and as the applicants are economically and mentally sound to take care of "Shivanjali", considering the welfare of the minor, this application deserves to be allowed.

6. To this effect, the learned advocate for the applicants has relied upon the authority of *Gaurav Nagpal v. Sumedha Nagpal*, (2009) 1 SCC 42. In this case, the Hon'ble Supreme Court has observed that while deciding an application for the appointment of a guardian, the welfare of the child should be the paramount consideration and not the rights of the parents under a statute for the time being in force or what the parents say. The

Court has to give weightage to the child's ordinary contentment, health, education, intellectual development, future surroundings, and above all, physical comforts. The moral and ethical values also have to be noted. So, considering such observations and the prevailing specific situation, the application deserves to be allowed on certain conditions. As a result, the following order :

ORDER

- 1] The application is allowed.
- 2] The applicants **No.1 Mrs. Ashwini Raju Nimbalkar** and **No.2 Raju Kaluram Nimbalkar** are appointed as **the guardians of minor "Shivanjali"** born on 02/11/2021, as per **Sections 7 and 8 of the Guardians and Wards Act, 1890**, on the condition that they shall submit an undertaking to this Court incorporating the following terms:
 - a. The applicants shall take care of minor "Shivanjali" in all respects, ensuring to take care of her education, health, upbringing, and overall welfare shall remain the paramount consideration;
 - b, The applicants shall provide a good environment for her so that no hostile atmosphere is created which would amount to "step-parents' treatment";
 - c. The applicants shall hand over minor "Shivanjali" to the biological parents as and when they demand her custody;

- d.** The applicants shall provide all financial support to minor "Shivanjali" for her better future and upbringing.

Dictated and pronounced in open Court.

Pune.
Date : 07/07/2026.

(D.R. Shetty)
District Judge – 15, Pune.

CERTIFICATE

I affirm that the contents of PDF file Judgment are same word for word as per original Judgment.

Name of Steno	R.L. Bhunyar (Stenographer G-I)
Court Name	D.R. Shetty District Judge-15 & Additional Sessions Judge, Pune
Date of Order/Judgment	07/07/2026
Order/Judgment signed by Presiding Officer on	07/07/2026
Order/Judgment uploaded & PDF on	07/07/2026