

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO. 123 OF 2014**

Bhagwan Baburao Kamthane

..Applicant

Vs

Bhagyashri Bhagwan Kamthane

.. Respondent

Mr. Sanjeev Mukund Gorwadkar, Senior Advocate for Applicant.

**CORAM : R.G.KETKAR,J.
DATE : 08/06/2015**

PC:

1. Heard Mr. Sanjeev Gorwadkar, learned senior counsel for the applicant.
2. By this Application under Section 115 of Code of Civil Procedure, 1908 (for short, C.P.C.), original defendant no.1 has challenged the order dated 26.11.2013 passed by the learned Civil Judge, Senior Division, Barshi, below Exhibit -29 in Spl.Civil Suit no.12 of 2013. By that order, the learned trial Judge rejected the application made by the applicant for dismissal of the suit.
3. In support of the Application, Mr Gorwadkar submitted that respondents no.1 and 2 instituted suit for maintenance. As per new amendment to Hindu Succession Act, 1956, plaintiff no.1 who claims to be daughter of defendant no.1, is a coparcener. She is major. The suit is not instituted for partition and is only for maintenance. The suit is, therefore, not maintainable.

4. The trial Judge has considered this aspect and also considered provisions of the Hindu Adoption and Maintenance Act, 1956. The learned trial Judge observed that plaintiff no.1 is unmarried daughter. Whether she is legitimate or illegitimate, this aspect will have to be decided at the time of final hearing of the suit. In view of Section 20(2) of the Hindu Adoption and Maintenance Act, 1956, legitimate or illegitimate child can claim maintenance from his or her father. As per section 20(3), unmarried daughter has a right to claim maintenance from her husband. The learned trial Judge has, therefore, held that the suit instituted by respondents no.1 and 2 is maintainable and accordingly rejected the application. I do not find that the learned trial Judge has committed any error as contemplated by Section 115 (1)(a) to (c). Hence, no case is made out for invocation of powers under section 115 of C.P.C. The Application fails and the same is dismissed.

(R.G.KETKAR, J.)