

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**SECOND APPEAL NO.203 OF 2013
ALONG WITH
CIVIL APPILCATION NO.608 OF 2013**

Chandrakant Rajaram Sutar & Ors. ... Appellants

V/s.

Balwant @ Balkrishna Krishna Deshmukh
& Anr. ... Respondents

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Mr.D.J. Shejul, Advocate for the Appellants/Applicants.
Mr.Ranjit A. Thorat, Senior Advocate i/b. Mr.P.J. Thorat, Advocate
for Respondent No.1.

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CORAM : RAVI K. DESHPANDE, J.

DATED : JULY 6, 2015.

P.C.

The trial Court dismissed the Regular Civil Suit No.122 of 1984 by its Judgment and order dated 31st March, 2009. The Court has held that the plaintiff has failed to establish that he is the adopted son of Krishna and Gangabai and therefore he was not entitled to possession of the suit property. The plaintiff had given up the relief of possession, as according to the plaintiff he got the possession of the suit property during the pendency of the suit. The Appellate Court by its Judgment and

order dated 15th January, 2013, allowed Regular Civil Appeal No.193 of 2009 and a declaration is granted that the plaintiff has established exclusive ownership over the suit property described in paragraph 1A i.e. Gat No.1762 admeasuring 2 Hectares and 99 Ares and potkhara 6 R situated at Mouje-Arvi, Taluka-Koregaon, District-Satara ("the said property"). The defendants are permanently restrained from obstructing the peaceful possession of the plaintiff over the said property. The Appellate Court has held that the plaintiff has established his adoption by Krishna and Gangabai and being an adopted son acquired exclusive possession over the said property.

2 With the assistance of the learned counsel appearing for the parties, I have gone through the findings recorded by the Courts below. Mr.Thorat, the learned senior counsel i/b. P.J. Thorat submits that in the absence of proof of adoption deed, the defendants would be entitled to share in the property. However, he submits that the Appellate Court has held that the adoption is proved and therefore the plaintiff has become the exclusive owner of the suit property. The learned counsel for the appellants does not challenge the findings by the Appellate Court on the proof of the adoption. Undisputedly, the parties belong to

“Shudra” community and the provisions of paragraphs 480, 626 and 635 in Chapter XXXI of the Hindu Law, have been relied upon. The provisions indicate that it is permissible amongst the “Shudras” to adopt daughter's son. Undisputedly, the plaintiff is the son of daughter of Krishna and Gangabai. Hence, no substantial question of law arises. Second Appeal is dismissed.

3 In view of the order passed in Second Appeal, Civil Application No.608 of 2013, is disposed of accordingly.

(RAVI K. DESHPANDE, J.)