

Sharayu

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 1415 OF 2014
IN
SUIT NO. 824 OF 2014

Usha Ramrao Bhojane	...Plaintiff
<i>Versus</i>	
Mangala Shivdas Dindokar & Ors.	...Defendants

Mr. N.J. Patil, *i/b Mohan Shetty, for the Plaintiffs.*
Mr. Cyrus Ardeshir, *a/w Mrs. Deepali Shetty & Mr. Shrikant Aithal*
i/b Hemangi Modi, for the Defendants Nos. 1, 2, 4 and 5.
Mr. Farhan Dubash, *a/w Ms. Harshal Manik, Mr. Siddharth Shenoy*
i/b M/s. Rustomji & Ginnwala, for the Defendants Nos. 3, 6 and
7.

CORAM: G.S. PATEL, J
DATED: 17th February 2015

PC:-

1. The Plaintiff seeks interim relief on the basis that she is the validly adopted daughter of one Laxman Shegaonkar and Yamunabai Shegaonkar. The Plaintiff was born on 27th September 1946 to one Dashrath Shegaonkar and his wife Suman, the Plaintiff's biological parents. Dashrath and Laxman were brothers. The Plaintiff's case as specifically pleaded in paragraph 2 of the

Plaint is, firstly, that she was adopted on 27th September 1950, and secondly, that this adoption was under the Hindu Adoptions and Maintenance Act, 1956.

2. I will briefly note that annexed to the Plaint are various documents, such as a school leaving certificate, a wedding card invitation and a marriage certificate that purport to show the Plaintiff as the adopted daughter of Laxman and Yamunabai Shegaonkar.

3. However, the claim to adoption under the Hindu Adoptions and Maintenance Act, 1956 is clearly incorrect. The alleged adoption predates the Act by about six years. Therefore, the adoption would be valid only if it is established that prior to 1956, when the Hindu Adoptions and Maintenance Act, 1956 was brought into force, a female Hindu could be validly adopted.

4. Mr. Ardeshir, Learned Counsel on behalf of Defendants Nos. 1, 2, 4 and 5, submits that prior to the 1956 Act, Hindu law did not recognise the adoption of a female child at all. He relies on the decision of the Division Bench of this Court in *Sandhya alias Supriya Kulkarni & Ors. Vs. Union of India & Anr.*,¹ a Division Bench Judgment of the Calcutta High Court in *Binapani Samanta Vs. Sambhu Mondal & Ors.*² and the decision of the Supreme Court in *M. Gurudas & Ors. Vs. Rasaranjan & Ors.*³

¹ AIR 1998 Bom 228

² AIR 2010 (NOC) 466 (CAL.) The entire text of the Judgment has been made available.

³ (2006) 8 SCC 367

5. We need look no further than the decision of the Supreme Court which states in unambiguous terms that prior to the Hindu Adoptions and Maintenance Act, 1956, the adoption of the daughter is invalid under Hindu law. The Division Bench Judgment of our Court, although in a wholly different context of a Constitutional challenge to the *vires* of the Act (or its amendment) itself makes it clear that under customary and ancient Hindu law the right of adoption extends only to one male child and that the adoption of a female child was never recognised till the 1956 Act.

6. In this view of the matter, the Plaintiff's documents notwithstanding, there is no *prima facie* evidence of a valid adoption. In fact, the law is clearly to the contrary. No reliefs can be granted to the Plaintiff on this Notice of Motion. The Notice of Motion is dismissed, with no order as to costs.

(G. S. PATEL, J.)