

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

SECOND APPEAL NO.704 OF 2016

Goroba s/o Eknath Bansode ..APPELLANT

VERSUS

Mahalsa w/o Goroba Bansode & ors. ..RESPONDENTS

Mr V.S. Tanwade, Advocate for appellant;
Mr S.S. Halkude, Advocate for respondents no.4 & 5

CORAM : N.W. SAMBRE, J.

DATE : 8th June, 2017

ORAL ORDER

Heard.

2. Having regard to Section 16 of the Hindu Marriage Act, 1955, whether an illegitimate child born out of a void or voidable marriage is entitled to share in the ancestral or self-acquired property is an issue which is referred to the Larger Bench of Apex Court, as is apparent from the judgment of the Apex Court, in the matter of **Revansiddappa & anr. vs. Mallikarjun & ors.**, reported in **2011 AIR SCW 2447**.

3. In the present case, original defendants no.3 and 4 were the children born out of second marriage of defendant no.1 Goroba with defendant no.2 Mahalsa, at whose behest the present appeal is preferred.

(2)

4. In view of above, in my opinion, it will be appropriate to admit the appeal. Hence, **admit**.

5. Learned Counsel Mr Halkude waives service of notice of admission of appeal on behalf of respondents no.4 & 5.

6. It is brought to my notice that in the execution proceedings, respondents no.4 & 5 have received possession of the suit property, pursuant to the decree for partition. In view thereof, there shall be status quo as regards possession of the property as on today.

7. Learned Counsel appearing on behalf of the appellant undertakes to file paper-book within a period of six weeks from today, failing which the appeal shall stand dismissed without further reference to the Court.

(N.W. SAMBRE, J.)

amj