

Section 6 of the Hindu Succession Act, 1956, being a daughter of coparcener Sanjay, she becomes a coparcener in her own right by birth and has the same right in the coparcenary property as if she had been a son. The Trial Court accepted the Appellant's contention that the property was an ancestral property, but relying on the judgment of this Court in the case of **Vaishali Satish Ganorkar Vs. Satish Keshavrao Ganorkar**¹, held that the Appellant, having been born prior to 8 September 2005 (i.e. the date on which the amendment to Section 6 of the Hindu Succession Act, 1956 came into operation), was not entitled to succeed to the property by birth. The First Appellate Court agreed with the Appellant that the decision in **Vaishali Satish Ganorkar** was no longer a good law in view of the Full Bench decision of this Court in the case of **Badrinarayan Shankar Bhandari Vs. Omprakash Shankar Bhandari**.² The Full Bench, in the case of **Badrinarayan Shankar Bhandari**, has held that even a daughter born prior to the amendment Act becomes a coparcener in the coparcenary property. The First Appellate Court, however, accepted the Respondents' case in their cross objections that the property was not a joint family property in the hands of the Appellant's predecessor Sanjay. From the genealogy relied upon by the Appellant herself, it is apparent that the property was originally owned by Kamalabai Jairam Rajmachikar ("Kamalabai") as its exclusive owner. Kamalabai died on 24 October 1983, leaving behind her two legal heirs, namely, Jairam (her husband) and Madhusudan (her son). Both Jairam and Madhusudan succeeded to the property of Kamalabai by intestate succession under the Hindu Succession Act, 1956. Jairam died thereafter leaving the share to his only legal heir, namely, Madhusudan. When Madhusudan died, the property devolved

1. 2012 (3) Mh.L.J. 669

2 [2014 CJ (Bom.) 467]

upon his widow Kusum and two sons and one daughter, namely, Sanjay, the predecessor in title through whom the Appellant claims, Shekhar and Ranjana. One fourth share in the suit property which thus came into the hands of Sanjay cannot be said to be a joint family property by any stretch of imagination. Therefore, there is no question of application of the amended provisions of Section 6 of the Hindu Succession Act, 1956 to the Appellant, who is the daughter of Sanjay. The conclusion drawn by the First Appellate Court that the property was a separate property of Sanjay, and not a joint family or coparcenary property, is unexceptionable. No substantial question of law, accordingly, arises in the second appeal.

3 In the premises, the second appeal is dismissed. There shall be, however, no order as to costs.

4 In view of the dismissal of the second appeal, the civil application does not survive and the same is also dismissed.

(S.C.GUPTE, J.)