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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL REVISION APPLICATION NO.55 OF 2018

Vimalbai Sudhakar More

APPLICANT

VERSUS

Sapna Sudhakar More and Others

RESPONDENTS

.....
Mr. Sandesh R. Patil, Advocate for the applicant
Mr. S. H. Tripathi, Advocate for respondent No. 1
.....

[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 8th OCTOBER, 2018

ORDER :

1. This civil revision application has been filed by respondent No. 2 in Succession proceedings bearing Miscellaneous Civil Application No. 217 of 2009.

2. It is the case of the applicant - original respondent No. 2 that first wife of Sudhakar (now deceased) died in August, 1999 and she got married with him in October, 1999. Real brother of deceased Sudhakar has also deposed that applicant - respondent No. 2 in succession proceedings is the legally wedded wife of deceased Sudhakar. Deepak, Lakhan, Akash and Asha are the

children of deceased Sudhakar.

3. Appellate court, from the record, had seen that in the year 2000 age of youngest child had been seventeen years. The ages of children have been admitted by original respondent No. 2.

4. Thus, having regard to emerging position, the appellate court found it difficult to consider that the applicant can be said to have married after death of first wife of Sudhakar. The appellate court considered that despite being supported by original respondent No. 3, it is discernible that marriage would not be a legal marriage before death of first wife of Sudhakar and the children do not appear to be from legitimate wedlock and original respondent No. 2 would not get status of legally wedded wife. Yet, the appellate court also observed that children, however, may have right of succession to the estate of deceased Sudhakar. The appellate court also cautiously considered that proceedings before him being of summary nature, it would not be within purview of the proceedings to decide about legal status claimed by a person and a civil remedy may be possible. Appellate court, with reference to a decision in the case of *“Draupada @ Draupadi Jaydeo Pawar V/s Indubai Kashinath Shivram Chavan”* reported in 2016 (3) Mh.L.J. 836 has considered that the claim by original respondent No. 2 is difficult to be acceded to.

5. Having regard to reasons adopted by appellate court, it does not appear that civil revision application would carry any force. The same is, as such, rejected.

Dinesh
Ramrao
Pawar

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[SUNIL P. DESHMUKH, J.]

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