

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

CIVIL REVISION APPLICATION NO. 264 OF 2013

JAGANNATH MADHAVRAO DHOLE AND OTHERS
VERSUS
MANGAL VENKAT GHOBAL AND ANOTHER

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Advocate for the Petitioners : Shri Sabnis Ameya N.
Advocate for Respondents 1 and 2 : Shri S.M.Vibhute.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 08th June, 2018

Per Court:

1 This Civil Revision Application is filed by the original Defendants in Regular Civil Suit No.416/2009, challenging the impugned order dated 06.07.2013 passed by the Trial Court by which, the application Exhibit-49 filed by the Defendants seeking rejection of the plaint under Order 7 Rule 11 of the Code of Civil Procedure by relying upon the judgment of the learned Division Bench of this Court in the matter of Vaishali Satish Ganorkar and another vs. Satish Kesharao Ganorkar and others, 2012 (2) ALL MR 737 : 2012 (3) Mh.L.J. 669, has been rejected. The Trial Court has concluded that all legal issues would be considered at the final stage while deciding the suit.

2 The issue involved is as regards the right of a daughter to the ancestral property of her father in view of the amendment to Section 5 of

the Hindu Succession Act. Considering the conflicting judgments, the issue was referred to the learned Full Bench of this Court. This Court, by order dated 30.06.2014, dealt with the issue raised by the Applicant therein as to whether, such suit could be dismissed notwithstanding the amendment to Section 5 of the Hindu Succession Act.

3 The learned Full Bench of this Court, by judgment dated 14.08.2014 in the matter of Shri Badrinarayan Shankar Bhandari and others vs. Omprakash Shankar Bhandari, 2014 (5) ALL MR 846, has settled the issue and the right of a daughter to claim share in the ancestral property of her father, has been recognized under certain circumstances.

4 It is informed that the view taken by the learned Full Bench of this Court in Badrinarayan Bhandari (supra) has been sustained by the Honourable Supreme Court in the matter of Prakash and others vs. Phulavati and others, (2016) 2 SCC 36.

5 In the light of the above, RCS No.416/2009 would be maintainable and the Trial Court would have to decide the said suit on its own merits. As such, this Civil Revision Application stands rejected.

6 All contentions of the litigating sides are kept open except the issue that has been answered by the learned Full Bench of this Court.