

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**SECOND APPEAL NO.410 OF 2018
WITH
CIVIL APPLICATION NO.958 OF 2018
IN
SECOND APPEAL NO.410 OF 2018**

1.Smt. Yogita Namdeo Kamble
(deceased)

2. Kum. Renu @ Renuka Namdeo
Kamble and Ors.

...Appellant/Orig. Def. No.1

Versus

Smt. Triveni Namdeo Kamble and
Ors.

...Respondents

.....

Mr. V.B. Rajure for the Appellant.

Mr. Tejpal S. Ingale for the Respondents.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 4th DECEMBER, 2018.

P.C.:-

The Appellant herein has challenged judgment and decree dated 2.7.2018 whereby the learned Ad-hoc District Judge-1, Ichalkaranji had dismissed R.C.A. No.51 of 2012 and thus confirmed the decree passed by the learned Joint Civil Judge, Senior Division, Ichalkaranji in R.C.S. No.198 of 2009.

2. The Appellants herein were the Plaintiffs and the

Respondents were the Defendants in the suit (hereinafter shall be referred to as 'Plaintiffs' and 'Defendants' respectively).

3. It was the case of the Plaintiffs that the Plaintiff No.1 was married to Namdeo and that the Plaintiff Nos.2 and 3 are the children born from the said wedlock. Said Namdeo expired on 20.2.2003. The Plaintiffs therefore claimed that they are the only heirs and legal representatives of the deceased Namdeo.

4. The Defendants claimed that the Defendant No.1 is the legally wedded wife of Namdeo and Defendant Nos.2 and 3 are the children from the said wedlock. The Defendants denied that the Plaintiff No.1 is the wife and Plaintiff Nos.2 and 3 are children of Namdeo. The learned Trial Judge after considering the material on record dismissed the suit. The Plaintiffs challenged the said decree and the learned Appellate Court upon appreciating the evidence on record and considering the submissions of the respective parties dismissed the regular civil appeal. The Plaintiffs have challenged the concurrent findings in the second appeal.

5. It may be mentioned that the records reveal that the

Plaintiff No.1, who claims to be the legally wedded wife of deceased Namdeo was his niece i.e. daughter of his sister. The extract of birth certificate as well as school leaving certificate at Exhibits-107, 108 and 66 and 67 shows the name of one Kiran Gaikwad is shown as father of the Plaintiff Nos.2 and 3. The Plaintiff No.1, who had claimed to be the legally wedded wife of Namdeo had expired during the pendency of the suit. In the death certificate her name is shown as Yogita K. Gaikwad.

6. In the light of above, in my considered view the findings recorded by the Courts are based on evidence on record. The appeal does not involve any substantial question of law and has no merits. Hence, the appeal is dismissed.

7. In view of dismissal of the appeal, the civil application does not survive and hence stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)