

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

20 WRIT PETITION NO. 14364 OF 2018

MUZZAFAR MAINODDIN MULLA
VERSUS
NITIN BALUS YELKAR AND OTHERS

Advocate for Petitioner : Mr. S.V. Gundre.
Advocate for Respondent No. 1 : Mr. R.N. Chavan
h/f. Mr. K.V. Patil.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 21.01.2019.

PER COURT :

1. The petitioner is the original plaintiff in RCS No. 485/2018. Grievance is that the petitioner has challenged the adoption decree in favour of respondent No. 1, by which, he has been adopted as a son by Mahadev @ Madhav Shivaji Shinde and Smt. Kamal Mahadev @ Madhav Shinde. Contention is that this couple has ten children and they have filed a false statement before the learned Civil Judge, Junior Division, Nilanga, in RCS 373/2017, that they do not have a son and they are adopting respondent No. 1.

2. It is, further, stated that respondent No. 1, is now enlisted at

serial No. 24, in the provisional select list of the Nagpur Rural Police, 2018, from the category of earthquake affected person. There is a horizontal reservation for earthquake affected persons. Since Mahadev and Kamal are earthquake affected. Respondent No. 1 is shown to be adopted by them, so that he would get the benefit of the reservation. It is further, stated that his adoption is against Section 11 of the Hindu Adoption and Maintenance Act. The couple Mahadev and Kamal have five sons and five daughters.

3. I find that the Trial Court has rejected an application Exhibit 16 filed by this petitioner on the ground that he is indirectly aggrieved by the selection of respondent No. 1 who is defendant No.1. Instead of challenging the selection list or the selection process, if so permissible in law, he has filed RCS No. 485/2018, putting forth a ground that the adoption of respondent No. 1 be set aside.

4. The issue as to whether the suit is maintainable is still pending before the Trial Court.

5. In view of the above, I do not find that the impugned order could be termed as being perverse or erroneous.

6. This petition, being devoid of merit, is therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

S.P.C.