

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

**SECOND APPEAL NO. 59 OF 2015
WITH
CIVIL APPLICATION NO. 547 OF 2014**

Laxman Krishna Gavade @ Patil
(Deceased) through his legal heirs
1. Kamalabai Dhondiba Patil and another ... Appellants
Versus
Krishna @ Krishnappa Laxman Gana Pawar
and others ... Respondents

.....

None for the appellants.

Mr. G. N. Salunke for Respondent Nos. 1 and 2.

.....

CORAM : SANDEEP K. SHINDE, J.

DATE : 17th JANUARY, 2019.

P. C.:

1. Heard learned Counsel for the respondent Nos. 1 and 2.

None appears for the appellant.

2. This Second Appeal is preferred by the original plaintiff who sought a declaration that he had never adopted defendant No.1 as 'son' and thus the adoption-deed dated 24th November, 1988 is illegal.

3. The defendant No.1 is the biological son of defendant No.2, while the plaintiff is grand-father of defendant No.1. It is plaintiff's case that he never had any intention to adopt

defendant No.1. It is his case that he was intending to create a charitable trust of his property for educational and social welfare purpose, however, defendant No.1 with ill design claimed himself to be an adopted son only with an intention to grab the plaintiff's property. On the backdrop of the aforesaid facts the suit was filed in August 1998 being R.C.S. No. 129 of 1998. The learned Civil Judge, Junior Division, Chandgad dismissed the suit. The Regular Civil Appeal No. 79 of 2004 filed against dismissal of the suit was also dismissed by the District Judge-1 Gadhinglaj. Against the decree in Regular Civil Appeal, this appeal is preferred.

4. With the assistance of the learned Counsel for the respondents I have gone through the judgments of the Courts below as well as appeal memo filed in Regular Civil Appeal and the present Second Appeal.

5. Both the Courts below have held that the adoption has been duly proved and in-fact the plaintiff had acted in pursuance to the adoption. The conduct of plaintiff, after adoption of defendant No.1 has been elaborately recorded by both the Courts below. The trial Court found that the plaintiff on his own had given *Vardi* / intimation to the Talathi in October 1994 to record the name of his adopted son in the revenue records. The adoption ceremonies

were proved by the defendants. The evidence has proved a fact that on 24th November, 1988 defendant No.1 was adopted by the plaintiff.

6. That even otherwise, date of adoption is 24th November, 1988. Suit was filed in the year 1998. It was thus beyond the period of three years, a period of limitation prescribed for under Article 57 of the Limitation Act, 1963.

7. Having gone through the judgments of both the Courts below and the memo of Second Appeal, in my view the appeal does not give rise to any substantial questions of law. The appeal is accordingly dismissed. In view of dismissal of Second Appeal, civil application also disposed of.

(SANDEEP K. SHINDE, J.)