

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

**SECOND APPEAL NO. 350 OF 2019
WITH
CIVIL APPLICATION NO. 746 OF 2019**

Sou.Kanchan Appasaheb Jadhav	...Appellant
VS.	
Smt.Laxmi Ganpati Patil & Anr.	...Respondents
Mr.Tanaji Mhatugade for Appellant.	
Mr.S.V. Sadavarte for Respondent No.1.	

CORAM : S.C. GUPTE, J.

DATE : 7 NOVEMBER 2019

P.C. :

Heard learned Counsel for the parties.

The second appeal challenges an order passed by the District court at Kolhapur in a regular civil appeal. The impugned order reverses a decree of dismissal passed by the trial court and decrees the suit filed by the Respondent (original Plaintiff). The appeal is **admitted** on the following substantial question of law:

“Whether the provisions of Section 22 of Hindu Succession Act apply if the legal heir, on whom a part of the immovable property of an intestate devolves, has already transferred his or her interest in the property?”

2 Respondent No.1 waives service. The Appellant to file paper book within a period of twelve weeks. The second appeal to come up for hearing in due course.

3 The civil application filed by the Appellant in the second appeal seeks stay of the impugned judgment and order passed by the District Court at Kolhapur in the appeal. Having regard to the fact that there was a decree of dismissal in the Plaintiff's suit in the trial court and the impugned order of the appeal court decrees the suit and declares the preferential right of the Plaintiff and directs Defendant No.1 to execute a sale deed in respect of the suit property, for obvious reasons, the impugned order passed by the District Court will have to be stayed. Accordingly, the civil application is disposed of by allowing the same in terms of prayer clause (a).

(S.C. GUPTE, J.)