

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

921 WRIT PETITION NO.807 OF 2019

SANJIVANI NANASAHEB DEVGUDE
VERSUS
VIJAYA NANASAHEB DEVGUDE AND ANOTHER

...
Advocate for Petitioner : Mr. Tungar Hrishikesh V
Advocate for Respondent Nos.1 & 2: Mr. Rajendra G. Hange
...

CORAM : V. K. JADHAV, J.
DATED : 18th February, 2020

PER COURT :-

1. Heard both the sides.
2. I am not inclined to interfere in the impugned order. Learned counsel for the petitioner however submits that in terms of the provisions of Section 26 of the Hindu Succession Act, 1956 and the observations made by this Court at principal seat at Bombay in the case of **Balchand Jairamdas Lalwani Vs. Nazneen Khalid Qureshi** reported in **LEX(BOM) 2018 3 32**, the disqualification as contemplated under Section 26 of the Hindu Succession Act is not applicable to the 'Convert' but it is applicable to the 'Descendants of Convert'. It has been stated by way of defence by the opponents that the applicant herself got converted. Learned counsel submits that this point may be kept open and the trial Court may consider the same on its own merits.

2. Learned counsel for appearing for the respondents has no objection if the point as stated above kept open.

3. In view of the above, I proceed to pass the following order:

ORDER

(I) The Writ Petition is hereby dismissed.

(II) The order dated 15.09.2018 passed by the Jt. Civil Judge, Junior Division, Beed passed below Exhibit-47 in Miscellaneous Civil Application No.281 of 2013 stands confirmed.

(III) The parties would be at liberty to raise all the points available including the applicability of the provisions of Section 26 of the Hindu Succession Act, 1956 or otherwise and the trial Court shall consider the same on its own merits at the conclusion of application.

(V. K. JADHAV, J.)

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