

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**919 SECOND APPEAL NO.569 OF 2022
WITH
CA/12021/2022 IN SA/569/2022**

JAYA SURYAKANT SHEKATKAR
VERSUS
SURYAKANT EKNATH SHEKATKAR DIED LRS. CHAYA AND ORS

...
Advocate for Appellant : Mr. Jadhavar Santosh S.

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 11th October, 2022

PER COURT :

1. The present second appeal is filed by Jaya, the wife of Suryakant Eknath Shekatkar, against the order of the learned Appellate Court dismissing the suit filed by her for perpetual and mandatory injunction against the Municipal Corporation.
2. Heard learned Advocate Mr. S. S. Jadhavar appearing on behalf of appellant.
3. The applicant had filed a suit for perpetual and mandatory injunction seeking a direction to the defendant No.2 Ahmednagar Municipal Corporation, Ahmednagar not to appoint anyone else on the place of her husband, on the ground of compassionate appointment.

The said suit was decreed by the Trial Court and the respondent No.2 was restrained from appointing anyone else other than the plaintiff on the ground of compassionate appointment. The said suit was filed during the lifetime of her husband Suryakant Eknath Shekatkar, who retired on 13/06/2017. Mr. Shekatkar filed an appeal before the District Court, Ahmednagar challenging the order of the Trial Court.

4. During the pendency of the appeal, a lady by name Chaya Eknath Shekatkar, an alleged second wife of Suryakant along with two minor children were brought on record as legal heirs and contested the proceedings before the Appellate court. The Appellate Court on consideration of the material and submissions of the parties held that the compassionate appointment is not a right and there can be no injunction against the Municipal Corporation to seek any direction for appointment on compassionate ground. If the need and an occasion arises, the Municipal Corporation would always be at liberty to consider the rival claims and decide the claim of compassionate appointment.

5. The Appellate Court at paragraph No.27 has observed that it is not in dispute that the appellant is the legally wedded wife of

deceased Suryakant and that the present suit is not regarding the declaration of the status of the plaintiff. Suryakant in his written statement has pleaded that he has kept one lady by name Chaya. It is also not the case of Suryakant that Chaya is his wife.

6. In this background, there is no contest as to who is the legally wedded wife of deceased Suryakant, and as such, there is no occasion for seeking the direction that is sought by the plaintiff. In view of the observations of the Appellate Court as stipulated above, no substantial question of Law arise for consideration by this Court.

7. The Municipal Corporation, if the occasion so arise, as to who is entitled for the appointment on compassionate grounds, will take all the necessary material into consideration and determine the rival claims for the same. This Court has not expressed anything on the contesting claim, if it so arises for consideration. This Court find no reason to interfere with the order of the Appellate Court. In view of the above, the appeal stands dismissed. Pending Civil Application stands disposed of.

(ARUN R. PEDNEKER, J)

vj gawade/-.