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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**918 SECOND APPEAL NO.713 OF 2014
WITH CA/12420/2014 IN SA/713/2014 WITH CA/5489/2021 IN
CA/12420/2014**

KAILAS KERU OHOL AND OTHERS .. Appellants

VERSUS

JAYPAL BABAN OHOL AND OTHERS .. Respondents

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Advocate for Appellants : Mr. Sanket S. Kulkarni

Advocate for Respondent Nos.1 to 5 and 7 to 11 : Mr. P.V. Tapse Patil

Advocate for Respondent Nos.12 to 16 : Mr. D.B. Rode

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WITH

**SECOND APPEAL NO.718 OF 2014
WITH CIVIL APPLICATION NO.12488 OF 2014 IN
SECOND APPEAL NO.718 OF 2014**

KRUSHNABAI KERU OHOL AND OTHERS .. Appellants

VERSUS

JAYPAL BABAN OHOL AND OTHERS .. Respondents

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Advocate for the Appellants : Mr. D.B. Rode

Advocate for Respondent Nos.1 to 5 and 7 to 11 : Mr. P.V. Tapse Patil

Advocate for Respondent Nos.12 to 14 : Mr. S.S. Kulkarni

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CORAM : MANGESH S. PATIL, J.

DATE : 23-02-2022

PER COURT :

. Heard both the sides at the stage of admission.

2. Second Appeal No.718 of 2014 is filed at the instance of a branch of the original respondent no.12 namely Krushnabai (second wife of Keru) and the daughters born to her from the common ancestor – Keru, who are aggrieved and dissatisfied by the rejection of their claim to inherit the coparcenery and joint family properties. Whereas, Second Appeal No.713 of 2014 is filed by the original plaintiffs, sons of Krushnabai and Keru, who are aggrieved and dissatisfied for not getting $\frac{1}{2}$ share, in the suit for partition and separate possession.

3. Since the dispute as to the rights of the illegitimate children under Section 16 (3) of the Hindu Marriage Act is awaiting decision of a larger Bench of the Supreme Court on a reference made in the matter of **Revanasiddappa and Ors Vs. Mallikarjun and Ors, [2011] 11 SCC 1**, both these appeals deserve to be admitted. The appeals are **admitted** on the following substantial question:

“Whether appellant nos.2 to 5 in Second Appeal No.718 of 2014 are entitled to inherit a share in the ancestral and joint family properties apart from the properties of their father Keru and the courts below were justified in refusing them the share?”

4. Issue notice to the respondents in both the appeals. Mr. P.V. Tapse, learned advocate waives service for respondent nos.1 to 5, 7 to 11 and Mr. D.B. Rode waives service for respondent nos.12 to 16 in Second Appeal No.713 of 2014 and Mr. P.V. Tapse, learned advocate waives service for respondent nos.1 to 5 and 7 to 11 and Mr. S.S. Kulkarni, learned advocate waives service for respondent nos.12 to 14 in Second Appeal No.718 of 2014.

5. The interim relief granted earlier shall continue till the final decision of the appeals.

6. Civil Application Nos.12420 of 2014, 5489 of 2021 and 12488 of 2014 are disposed of.

(MANGESH S. PATIL)
JUDGE

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