

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

APPEAL FROM ORDER NO. 691 OF 2022

Parag Mahadev Jadhav and ors. Appellants

v/s.

Nil Respondent

Mr. Rajeev Talasikar for the Appellants.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 13th JULY, 2022.

P. C. :-

. With consent, heard finally at the stage of admission.

2. The Appellants herein who are the parties to Adoption Petition No.57/2022 have assailed the order dated 22/04/2022 passed by the learned Judge, City Civil Court, Greater Mumbai.

3. The Appellant Nos.2 and 3 were married and have a child from the said wedlock. The Appellant No.2 filed a petition for divorce by mutual consent under section 13(B) of the Hindu Marriage Act, 1955. The same came to be decreed on 17/04/2017. The Appellant No.3, the biological father of the child consented and granted permanent custody of the child to the Appellant No.2, the biological mother of the child. The Appellant No.2 subsequently married Appellant No.1 under Special

Marriage Act. The minor child is in the custody of the Appellant No.2 and the Appellant No.1. The Appellant No.1 was desirous of adopting the child and proposed to adopt the child. All the concerned parties consented for adoption, since it was in the interest and welfare of the minor child. Accordingly, Adoption Petition No.57/2022 under section 7 of Hindu Adoption and Maintenance Act, 1956 was filed before the City Civil Court, Greater Mumbai. The said adoption petition was finally heard and decided on 22/04/2022. By order dated 22/04/2022, the learned Judge allowed the Petition and declared the Appellant Nos.1 and 2 as the parents of the female child for all purposes allowed by the law including intestacy. The learned Judge directed the authorities to issue birth certificate of the child by substituting the name of Appellant Nos.1 and 2 as the parents of the child.

4. The grievance of the Appellants is that while allowing the said Petition, the learned Judge has directed deletion of the name of the Appellant No.2 as Snehal Sunil Divekar and further directed to record her name in the birth certificate as “Snehal Parag Jadhav”. The Appellant No.2 is the biological mother of the child. She has retained her maiden name as “Snehal Sunil Divekar” and has not changed her

name or surname even after her marriage with the Appellant No.1. Hence, the learned Judge was not justified in directing the Appellant No.2 to change the surname. The impugned order to that extent needs to be set-aside. Directions given by the learned Judge to delete the name of the Appellant No.2 and to substitute the same as “Snehal Parag Jadhav” is set-aside. It is clarified that the birth certificate shall have the names of the Appellant Nos.1 and 2 as the parents of the child.

5. Appeal stands disposed of in above terms.

**PREETI H
JAYANI**

(SMT. ANUJA PRABHUDESSAI, J.)

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