

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 731 OF 2024
WITH
INTERIM APPLICATION NO. 13953 OF 2024

Surekha Prabhakar Dixit And Others	...Applicants
Versus	
Vasant Murlidhar Potdar And Others	...Respondents

Mr. Dilip Bodake, for Appellant.

CORAM : M.M. SATHAYE, J.

DATE : 14th NOVEMBER, 2024

P.C. :

1. Heard learned counsel for the Appellant. Perused papers. The Appeal is filed challenging order of remand dated 30.04.2024 passed by the learned District Judge, Kolhapur in Regular Civil Appeal No. 203 of 2017.

2. Learned counsel for the Appellant points out that this Appeal is filed challenging the Judgment and Order dated 03.03.2015 in Civil Misc. Application No. 201 of 2012 passed by 4th Joint Civil Judge, Senior Division, Kolhapur exercising jurisdiction u/s.276 of the Indian Succession Act, 1925 for grant of probate. He submits that in view of the judgment of this Court (Division Bench) in the matter of ***Smt. Nola Jonathan Rambhise V. Union of India & Ors.*¹**, the Appeal

1. 2014(4) ALL MR 181

against the Order dated 03.03.2015 could not have been filed in the District Court and ought to have been filed in this Court (High Court). He submits that a legal aspect of jurisdiction is involved, which goes to the root of the matter and hence the impugned Order is *ex-facie* without jurisdiction. He further submits that pursuant to the directions in the impugned order, the Trial Court is proceeding with the matter and it is kept for hearing on 29.11.2024.

3. Issue notice to the Respondents, returnable on **16.12.2024** for final disposal. In addition to the Court notice, private notice is permitted.

4. Till next date there will be ad-interim relief in terms of prayer clause (a) which reads as under.

“(a) Pending the hearing and final disposal of the present Appeal from Order, this Hon'ble Court be pleased to stay the effect, implementation and operation of the impugned Judgment and order dated 30.04.2024 passed by the Ld. District Judge-1, Kolhapur, in Regular Civil Appeal No. 203 of 2017;”

5. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)