

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.407 OF 2023
WITH
IA/1719/2024 IN SA/407/2023

Suvarna Netaji Patil

...Appellant

Versus

Smita Ashok Patil

...Respondents

...

Mr.Aseem Naphade, a/w. Ms. Deepanjali Mishra i/b. Mr. Vithal Sankpal, *for the Appellant.*

Ms. Divya Arvind Pawar, a/w. Mr. Krishnakant Deshmukh, for Respondent No.1.

Mr. Pankaj Deokar, for Respondent-State.

...

CORAM : SANDEEP V. MARNE, J.

DATED : 24 APRIL 2024.

P.C.:

1. Second Appeal has been heard on 17 April 2024 and the Judgment has been reserved. However, it is felt that the questions of law formulated by this Court at the time of admission of the Appeal on 7 April 2023 need to be re-framed after hearing the submissions canvassed by the learned counsel appearing for rival parties. Accordingly substantial questions of law to be decided in the Appeal are re-framed as under :-

- (i) Whether Certificate of Birth issued under provisions of Section 17(2) of The Registration of Births and Deaths Act, 1969 is admissible in evidence under provisions of Section 35 of the Indian Evidence Act without the necessity of examining the official who issued the same, especially when the same is marked as Exhibit in evidence ?
- (ii) If no objection is raised at the time of marking of document as Exhibit, whether objection can be subsequently raised for reading the said document in evidence ?
- (iii) When there is difference in the date of birth recorded in the school records and in the Register of Births and Deaths, which entry would prevail ?
- (iv) Whether production of document certifying date of birth during currency of selection (which is not produced alongwith application) will have any effect on the validity of selection of a candidate ?

2. After substantial questions of law are re-framed, both Mr. Naphade and Ms. Pawar have been heard extensively on the above questions of law. Arguments heard. Judgment reserved.

SANDEEP V. MARNE, J.