

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.13087 OF 2024
IN
SECOND APPEAL NO.280 OF 2022**

Sonaba Sitaram PawarApplicant

In the Matter in Between:

Sonaba Sitaram PawarAppellant

Vs.

Kondabai Maruti Padale & Ors.Respondents

Mr. Vishwanath Talkute with Mr Mahesh R. Bhosale & Mr. Pratik Bhojane, for the Applicant.

Mr. Nikhil Wadikar (Through VC), i/b. Mr. Nandu Pawar, for the Respondents.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 16th OCTOBER 2025

FINAL ORDER :-

1. The Applicant/Appellant seeks stay to operation, implementation and execution of Judgment and Decree dated 6th August 2002 passed by Civil Judge, Junior Division, Wai in Regular Civil Suit No.245 of 1993 as well as the proceeding in partition Darkhast/SR-01/2022, pending before Tahsildar, Mahabaleshwar.

2. The Applicant/plaintiff instituted suit for declaration as adoptive son, partition and injunction. In short, Applicant claimed

right over suit property being adoptive son of deceased Chandrabhaga Pawar. The suit was decreed granting 1/3rd share to Applicant. So also, declaration was granted that partition decree in Regular Civil Suit No.245 of 1993 is not binding upon Applicant's right. However, in Appeal learned District Judge concluded that adoption of Applicant is invalid being not in conformity with Section 11(4) of Hindu Adoption and Maintenance Act, 1956. Eventually, dismissed the Applicant's suit.

3. On 18th June 2024, this Court admitted Second Appeal on framing substantial questions of law, which reads thus:

(i) Whether the plaintiff was entitled to the share of Narmada in view of she relinquishing her share in favour of the plaintiff ?

(ii) Whether the suit could have been decreed for Narmada's half share to be allotted to the plaintiff in view of Narmada filing written statement admitting claim of the plaintiff ?

4. Mr. Vishwanath Talkute, learned Advocate appearing for Applicant submits that since Second Appeal is admitted and entitlement of Applicant in suit property is *sub judice* in Second Appeal, it is necessary to protect interest of Applicant. If a partition

decree in Regular Civil Suit No.245 of 1993, in which Applicant was not party, is executed, Applicant would suffer irreparable injury.

5. Per contra, Mr. Nikhil Wadikar, learned Advocate appearing for Respondents opposes the prayer for grant of interim relief; firstly, on the point that Applicant's claim over suit property was based on theory of adoption, which is rightly negated by Appellate Court. The second contention of Applicant regarding relinquishment of right by Narmada in favour of Applicant cannot be accepted for the simple reason that Applicant was not family member and Narmada could not have legally relinquished her share in favour of outsider to family.

6. It is apparent that this Court had granted ad-interim protection in favour of Applicant vide detailed order dated 22nd April 2025. The Second Appeal is admitted by framing substantial questions of law. The issue as to whether plaintiff is entitled to share of Narmada or allotment of Narmada's share to him will have to be decided at the time of final hearing, however, till such decision is made on merits, there is no reason to disturb position as regards the suit property as on today.

7. In that view of the matter, ad-interim relief granted on 4th February 2025 and continued by order dated 22nd April 2025 stands confirmed.

8. The Interim Application stands disposed of in aforesaid terms.

(S. G. CHAPALGAONKAR, J.)

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