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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 9599 OF 2025**

Sunil Kashinath Kamthe and Another ... Petitioners

Vs.

Late Hiranman Ankush Ambekar ... Respondents

(since deceased) through Legal Heirs

Chandrakant S. Chavhan and Others

Mr. Prathamesh Bhargude a/w. Mr. Sumit Sonave and Mr.

Vaibhav Thorave for the Petitioners.

**CORAM : GAURI GODSE, J.**

**DATE : 11<sup>th</sup> JULY 2025**

**ORDER :**

1. Not on board. Taken on the production board.
2. Heard learned counsel for the petitioners. This is urgently circulated as the petitioners apprehend that the respondents are likely to create third party interest. This petition is filed to challenge the order rejecting the application for interim relief in the first appeal. The first appeal is filed to challenge rejection of the plaint in a suit filed by the petitioners for partition and separate possession.

3. Learned counsel for the petitioners submits that the

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plaint was mainly rejected on the ground that the petitioners predecessor in title was adopted in some other family and therefore the petitioners would not have no right to seek any partition in the biological family of their predecessor in title.

4. Learned counsel for the petitioners submits that according to the petitioners the property is vested in their predecessor in title before adoption, hence the petitioners would be entitled to seek partition and separate possession. He submits that in any event the plaint could not be rejected on the ground of adoption; hence according to the learned counsel for the petitioners, the petitioners would be entitled to interim relief.

5. Learned counsel for the petitioners submits that the application for interim relief in the first appeal is rejected mainly on the ground that the application for interim relief would not be maintainable in view of the recent decision of the Hon'ble Apex Court in the case of ***IEEE Mumbai Section Welfare Association vs. Global IEEE Institute for Engineers***<sup>1</sup>

Learned counsel for the petitioners submits that the order of the Hon'ble Apex Court pertains to a Commercial Suit and thus the legal principles would not apply in the present case

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<sup>1</sup> Civil Appeal No. 7235 of 2025

which arises out of a suit for partition and separate possession.

6. Learned counsel for the petitioners further submit that when the first appeal was filed, the District Court had passed orders directing the parties to maintain status quo on 3<sup>rd</sup> April 2025. However, after the interim application is rejected on 30<sup>th</sup> June 2025 the order is not continued.

7. Learned counsel for the petitioners further rely upon a draft of conveyance deed. Learned counsel for the petitioners submit that the petitioners have been provided with the draft deed of conveyance which is annexed at page 120 of the petition. He submits that there is a strong apprehension that the respondents would create third party rights. He therefore submits that during the pendency of this petition the respondents be restrained from creating third party rights.

8. Issue notice to the respondents returnable on 3<sup>rd</sup> November 2025.

9. In addition to the court notice, learned Advocate for the petitioner to serve the respondents by private service and file service affidavit before the next date.

10. Learned counsel for the petitioners shall ensure that

copies are supplied and court notice is issued by taking Hamdast.

11. Considering the averments in the plaint, prima facie I find substance in the arguments raised on behalf of the petitioners, hence till the next date the statuo quo order granted on 3<sup>rd</sup> April 2025 shall continue.

**[GAURI GODSE, J.]**