

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
TESTAMENTARY PETITION NO.3577 OF 2024

Surendra Sambhaji Raghav

...Petitioner

Sambhaji Krishna Raghav

...Deceased

Mr. Sagar Redkar and Mr. Narendhra K for Petitioner.

CORAM : ARIF S. DOCTOR, J.

DATED : 5th MARCH 2025

P.C. ,

1 Today the matter was on board for directions. The petition is for succession certificate. I am informed that the Testamentary Registrar on 16th October 2024 raised a requisition as to the maintainability of the petition at the instance of the petitioner.

2 The Learned Counsel for the petitioner today places reliance on additional affidavit which has been filed pursuant to the order dated 6th December 2024. From the said affidavit, he points out the fact that the petitioner has been adopted by the deceased.

3 Having due regard to the submissions made, the contention of the affidavit as also reliance placed upon the judgment of the Hon'ble Supreme Court in the case of **Kondiba Rama Papal & LRS & Ors. Vs. Narayan Kondiba Papal**¹ which sets out as follows:

"At the time when the plaintiff was adopted he was about 22 years old, but even though there is a difference of opinion between various schools as to the age when a boy may be adopted, so far as the Bombay State is concerned

¹(1991) 2 SCC 218

the position is well settled in view of more than one judicial decision. As pointed out in Mulla's Hindu Law, 14th Edition at page 550, in the Bombay State a person may be adopted at any age though he may be older than the adopter and though he may be married and have children. The adoption is not invalid although it took place after the thread ceremony of the boy was performed. Thus the custom is judicially recognised in the Bombay State as regards adoption of child at any age. Once the custom is judicially recognised, it is not required to be independently proved in subsequent cases. The plaintiff and the defendant No. belonged to the area which was part of the old Bombay State and accordingly such a custom prevailed amongst them as regards adoption of a child at any age. Even independently of this position, in the old Bombay State evidence was led of two instances of adoption of persons belonging to the same caste as the plaintiff where a child was adopted at the age above 15 years after the Act came into force. Thus in my opinion, in view of the settled position in law as judicially recognised, if the factum of the adoption is established its validity cannot be challenged on the ground that the adopted child had completed the age of 15 years at the time of his adoption."

There is no impediment in the application made for succession certificate being maintained by the petitioner. Hence the requisition dated 16th October 2024 raised by the Testamentary Registrar is accordingly disposed of.

(ARIF S. DOCTOR, J.)