

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.459 OF 2026
IN
FIRST APPEAL NO.2396 OF 2025

Padma Dattaram Ugale

...Applicant

Versus

Bhagyashree Dattaram Ugale

...Respondent

Mr. Omkar Nagwekar i/b. Ms. Prabha Badadare, for the Appellant.
Mr. Vinay Kanodia a/w. Ms. Kajal Wadhwana i/b. H.Kumar Vaidyanathan,
for the Respondents.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : JANUARY 20, 2026

P. C. :

1. By this Interim Application, the Applicant seeks stay of the judgment and decree dated 24th February, 2022 allowing the application filed by the Respondent and granting Probate.
2. Learned counsel for the Applicant submits that the Applicant is the legally wedded wife of the deceased and divorce proceedings were filed by the deceased. During the pendency of the proceedings, the deceased expired and hence the proceedings abated. He would further submit that as divorce was not granted as per the procedure of law, the marriage subsisted. He points out that in the application filed by the

Respondent claiming to be the wife of the deceased. He would further submit that the Respondent had taken out proceedings seeking succession certificate and the citation on Applicant was published though the Respondent was aware about the address of the Applicant.

3. Per contra, learned counsel for the Respondent would submit that the Applicant and the deceased separated by executing a document styled as "Deed of Divorce by mutual consent" on 30th April, 2002. He submits that the deceased got married to the Respondent as per hindu vedic rights. He would further point out that in the Will, the deceased has stated that though he is not legally married to the Respondent, all his property should be bequeathed to the Respondent. He would further submit that if the retirement benefit, is not released to the Respondent, her survival would be difficult.

4. I have considered the submissions and perused the record.

5. The Will of the deceased itself states that the Respondent is not the legally wedded wife of the deceased. This *prima facie* lends credence to the claim of the Applicant, that the marriage was subsisting at the time when deceased expired. That being so, the Applicant was entitled to be cited in the probate proceedings. It is stated that in the probate proceedings, the Applicant was served by public notice in the daily newspaper 'Navshakti' and after evidence was led, the Proabate has been granted. It is not pleaded in the probate

petition that the Respondent is not aware about the address of the Applicant. In that event, it was necessary that the citation be personally served upon the Applicant and not by paper publication. The whole purpose of the paper publication is to ensure effective service of the notice where the other party resides. The submission that the paper publication was done in the local newspaper circulating in Nashik, in fact, helps the case of the Applicant that the Respondent was aware of where the Applicant was residing.

6. In light of above, *prima facie* case has been made out for grant of interim relief. In event stay is not granted, the retirement benefits of the deceased would be released to the Respondent and there could be irreparable loss to the Applicant.

7. In light of above, Interim Application is allowed in terms of prayer clause (b).

[SHARMILA U. DESHMUKH, J.]