

Court No. - 19

Case :- WRIT - A No. - 9298 of 2023

Petitioner :- Manni Lal Urf Manni Lal Verma And 3 Others

Respondent :- State Of U.P. Thru. Addl. Chief Secy.

Madhyami Shiksha, Lko. And 6 Others

Counsel for Petitioner :- Avadhesh Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Jaspreet Singh,J.

Heard learned counsel for the petitioners. Notice on behalf of the respondent No.1 to 5 has been accepted by the office of Chief Standing Counsel.

By means of the instant petition, the petitioner has prayed for the following reliefs, which read as under:-

"(i) Issue a writ, order or direction in the nature mandamus commanding and directing the opposite parties to recover the withdrawal amount of GPF and service benefit from opposite party No.7 and stop the family pension granted in favour of opposite party No.7, forthwith, in the interest of justice.

(ii) Issue a writ, order or direction in the nature of mandamus commanding and directing the opposite parties to secure the amount of GPF and service benefit in favour of minor children of Late Krishna Kant Verma upto attaining the age of their majority, in the interest of justice".

Apparently, what the record indicates is that Shri Krishna Kant Verma was working as Assistant Teacher at Sanatan Dharm Intercollege, Hardoi. Shri Krishna Kant Verma from his first wife had three children, who are of minors and who are impleaded as the petitioners No.2, 3 and 4 through their grandfather, who is the petitioner No.1.

It is stated that after the death of the first wife, Shri Krishna Kant Verma married with the respondent No.7. After his death, certain issues cropped up relating to grant of pension and GPF fund. In the aforesaid backdrop, the petitioners No.2, 3 and 4 along with the respondent No.7 had filed a petition under Section 372 of the Indian Succession Act, 1925 seeking succession certificate which was granted by the Court concerned on 16.12.2021.

In the aforesaid backdrop, now the contention raised by the petitioners is that the Department has already paid the GPF to the respondent No.7 and in context of the fact that the

respondent No.7 is not taking any interest or looking after the minor-petitioners No.2, 3 and 4. Accordingly, the Department be directed to recover the amount of GPF to protect the rights of the minor-petitioners No.2, 3 and 4.

Learned standing counsel has pointed out that in terms of the succession certificate which was placed before the Department, an order had been passed in pursuance whereof the amount has been released which is not disputed by the petitioners. In case, if there is any dispute inter-se the parties i.e. between the petitioners No.2, 3 and 4 and the respondent No.7 that can be fairly adjudicated before the appropriate forum. However, the writ petition for the relief as claimed is not maintainable.

Having considered the submissions of the learned counsel for the parties and from the perusal of the material on record, it is not disputed that the petitioners No.2, 3 and 4 and along with the respondent No.7 have jointly filed a petition under Section 372 of the Indian Succession Act, 1925 before the Civil Judge (Junior Division), Hardoi which came to be allowed on 16.12.2021 in pursuance whereof the amount has been received by the respondent No.7. In case, if there is any dispute inter-se the parties, the petitioners have adequate remedy before the appropriate forum but there can be no mandamus issued against the respondent No.7, who has also the succession certificate in her favour. The basic scope of the proceedings under Section 372 of the Indian Succession Act, 1925 is limited to the extent of granting a certificate in favour of a person who is best suited and no rights are adjudicated.

In the aforesaid backdrop, this Court is not inclined to interfere. It shall be open for the petitioners to approach the appropriate forum for ventilation of their grievance. The petition in the aforesaid circumstances is not maintainable and it is accordingly **dismissed**.

It is made clear that the petition is not entertained solely on the ground of disputed questions as well as rights of the parties which require adjudication which can be considered before the appropriate Court and any observations of this Court may not be expressed as any opinion on merits.

Order Date :- 7.12.2023

Rakesh/-