

HIGH COURT OF CHHATTISGARH, BILASPUR**CR No. 163 of 2014**

- Swapna Kumar Rai S/o Late Nikhil Chandra Nahrai Aged About 65 years R/o Plot No. 1, Manohar Vihar, Nagpur, P.S. and Distt. Nagpur (Maharashtra)

---- Applicant**Versus**

1. Smt. Meera Choudhari W/o Late Nepal Choudhari Aged About 75 Years R/o P.W.D. Colony, Kondagaon, P.S. Kondagaon, Distt. Bastar C.G.
2. Smt. Rubi Dev W/o T.R. Dev Aged About 70 Years R/o Plot No. 145, Shakti Nagar, In Front Of Punjab National Bank, Gupteshwar, Jabalpur, Distt. Jabalpur M.P.
3. Smt. Ratna Nandi W/o N. Nandi Aged About 65 Years R/o 1/21/1, Ramkrishna Naskar Lane, Post Office Belegghata (Kolkata)
4. Smt. Dola Chanda W/o A. Chanda Aged About 58 Years R/o 65, Bosas Road, Bospara, Post- Nabadweep, Distt. Nadia (W.B.)
5. Smt. Falguni Vishwas W/o S. Vishwas Aged About 54 Years R/o 6, Murti Line, Post Office Jagdalpur, Distt. Bastar C.G.
6. Public At Large.

---- Respondents

Shri GD Vaswani, Advocate on behalf of applicant as well as for the respondents.

Order On Board**04/8/2015**

Shri GD Vaswani has filed vakalatnama to represent the respondents 1 to 5 also. Respondents 1 to 5 have filed no objection separately stating that they have no objection if the succession certificate is issued in the name of the applicant.

2. Shri Vaswani submits that as there is no any contest and all the respondents are agreeing with the prayer made by the applicant, he is representing both the parties.

3. Heard finally.

4. It is submitted on behalf of the applicant and also on behalf of the respondents that the succession certificate as ordered by the Sixth Civil Judge Class-I, Raipur in Succession Case No.80/12 may be issued in the name of the applicant after obtaining Court fee as applicable. The applicant and the respondents have agreed that instead of $1/6^{\text{th}}$ of the portion as per para 18 of the impugned order passed by the trial Court, succession certificate as a whole may be issued in the name of the applicant.

5. As per the facts of the case, the trial Court passed order dated 16.4.2013 and while disposing of the application for succession certificate held that the applicant is entitled for $1/6^{\text{th}}$ share for the security deposited and non applicants 1 to 5 are also entitled for $1/6^{\text{th}}$ share. The trial Court further ordered that upon deposit of Court fee as required, succession certificate to the extend of $1/6^{\text{th}}$ of the share be issued in the name of the applicant. The trial Court further held that so far as the prayer for property/cash deposited in locker at different banks of the late Samir Kumar Roy, no any succession certificate can be issued as the locker does not include under the definition clause of 'security' for the purpose of Section 370 of the Indian Succession Act, 1925. For operation of those lockers of different banks a letter of administration may be obtained from the courts having jurisdiction. The applicant preferred Misc. Civil Appeal No.57/14 before the Fifth additional District Judge, Raipur and the First Appellate Court vide its order dated 29.12.2014 affirmed the order passed by the trial Court and dismissed the appeal. Against the said dismissal, the applicant preferred the civil revision,

6. During the arguments, learned counsel representing both the parties submits that the applicant is not contesting the instant civil revision against the order of the trial Court regarding operation of the locker at different banks. He further submits that all the respondents by their written application submitted before this Court submitted that they have no objection if the succession certificate for the whole of the security is issued in the name of the applicant as per para 18 of the order of the trial Court.

7. On due consideration, since the applicant and respondents 1 to 5 have agreed for issuance of succession certificate in the name of the applicant as per para 18 of the order of the trial Court and even otherwise, all the above mentioned parties voluntarily submitted no objection, the prayer made in this behalf are proper and acceptable under the law.

8. Consequently, the instant civil revision is disposed of with a direction to the trial Court to issue succession certificate for all the securities in the name of the applicant as mentioned in para 18 of the order of the trial Court after obtaining necessary Court fee. The certificate already issued by the trial Court be modified as indicated above.

9. The civil revision is allowed. No order as to cost.

Sd/-

(Chandra Bhushan Bajpai)

JUDGE