

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.4267 of 2015

Date of Decision.09.07.2015

Darpan Rana

.....Petitioner

Versus

Smt. Kapoori Devi and others

.....Respondents

Present: Mr. Vineet Sehgal, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. In the matter of realization of share of compensation amount determined in the land acquisition award, the mother has been accorded a share to the son's property in the face of objection by the wife. The objection by the wife was that there is a complaint registered for offence under Section 306 IPC against the mother as being responsible for causing abetment to suicide. She will, therefore, be disinherited under Section 25 of the Hindu Succession Act. The Court has allowed for the amount to be granted to the mother in spite of objections relating to mutation that has been entered including the name of the mother alongside the other class-I heirs specified under the Hindu Succession Act.

2. Learned counsel appearing on behalf of the petitioner says that it took nearly two years for her to have even the complaint registered and the investigation is still in progress. It could just as well

be that. It is not merely a case of suicide but it is a higher offence under Section 302 IPC that could be prosecuted against the mother. The counsel would, therefore, say that she is not interested in the money. All that she wants is a direction for non-payment of money to the mother as regards the share when her right to claim the money as heir to the son is seriously disputed by her.

3. A dispute which will disinherit the mother from claiming share to the son's property ought to be tested in the light of Section 25 of the Hindu Succession Act. If the complaint against the mother has been an imputation of murder and the investigation was still in progress, there was surely a case for stopping the amount to be released to her. If the effect of death is admitted as suicide but that suicide is alleged to have been abetted by the mother then Section 25 of the Hindu Succession Act cannot operate; at least, prima facie so. I am aware of the contention taken by the widow that it could escalate to a higher offence under Section 302 IPC and in such an eventuality, the mother will be disinherited. If such a situation warrants, it would be taken care of later. As of now, there is no justification to deny the mother a share in the amount which is determined as compensation for the estate of the deceased and she shall be permitted to withdraw the same. If there is any higher charge attributed to the mother for murder, the Court that directs the amount to be withdrawn could protect the interest of the widow by securing an undertaking from the mother that if ever there is a charge under Section 302 IPC, she will redeposit the money. The amount shall be permitted to be withdrawn with such an undertaking from the mother.

4. The order passed allowing the amount to be withdrawn by the mother is maintained but it is modified to the extent stated above. I have dispensed with notice to the respondents since I have still allowed for the amount to be withdrawn. It is open to the mother of the deceased to approach this Court for any modification if ever there is any grievance that there is a needless fetter against her right. With these observations, the civil revision is dismissed.

(K. KANNAN)
JUDGE

July 09, 2015
Pankaj*