

HIGH COURT OF CHHATTISGARH, BILASPUR**Miscellaneous Appeal No.610 of 2001**

Dayaram Banchod, son of Shri Ram Kishnu, aged about 64 years, R/o Tilda, Tahsil Tilda, Raipur

---- Appellant

versus

1. Smt. Premvati Bai, Wd/o Ramji Naik, aged about 82 years, R/o Purani Basti, Newra, Tahsil and District Raipur
2. Shaili Banchod, aged about 15 years, D/o Dayaram Banchod, Since Minor, through her father Dayaram Banchod, R/o Tilda, Tahsil Tilda, Raipur

---- Respondents

For Appellant	:	None
For Respondent No.1	:	Ms. Sarina Khan, Advocate

Hon'ble Shri Deepak Gupta, Chief Justice

Order on Board

22.7.2016

1. This appeal was listed on 1.7.2016, but on that date, no one appeared for the Appellant. The appeal was again listed on 8.7.2016. On that date also, no one appeared for the Appellant. Today again, when the appeal was called out for hearing, no one appeared for the Appellant. Instead of dismissing the appeal for want of prosecution, I proceed to decide it on merits.

2. This appeal is directed against order dated 18.4.2000 passed in Case No.38 of 1998 by the Additional Chief Judicial Magistrate, Raipur under the Indian Succession Act. The Trial Court refused to grant succession certificate in favour of the husband on the ground that the husband and the wife had been separated.

3. The facts are that deceased Radhikabai, wife of the Appellant was operating an account in the State Bank of India in which she had an amount of Rs.1,72,366/-. The Appellant claiming himself to be the husband of the deceased filed an application both on his and on behalf of his daughter before the Trial Court for succession certificate. The mother

of the deceased was impleaded as a private Respondent.

4. The Trial Court, after affording opportunity of hearing to the parties and leading evidence, came to the conclusion that only the daughter is the legal heir of the deceased. A finding of fact has been given by the Trial Court that there was separation between the deceased and the Appellant and they were no longer husband and wife and, therefore, the Appellant is not entitled to any amount. The amount of deposit in the State Bank of India has been ordered to be kept in a fixed deposit in the Bank till the successor/daughter of the deceased attains majority. These are findings of fact and do not call for any interference.

5. I find no merit in the appeal. It is accordingly dismissed. No costs.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE