

HIGH COURT OF CHHATTISGARH, BILASPUR

Civil Revision No.54 of 2015

1. Shakuntala Sinha, W/o Late Shri Murli Manohar Sinha, aged about 63 years,
2. Amit Kumar Sinha, S/o Late Shri Murli Manohar Sinha, aged about 37 years,
3. Vikas Kumar Sinha, S/o Late Shri Murli Manohar Sinha, aged about 31 years,

All are R/o Shivdhari Colony, Ambikapur, P.S. Ambikapur,
District Sarguja (C.G.)

(Non-applicants before trial Court)
---- Petitioners

Versus

1. Manju Sinha, W/o Late Shri Murli Manohar Sinha, aged about 52 years,
2. Rashmi Sinha, D/o Late Shri Murli Manohar Sinha, aged about 30 years,
3. Renu Sinha, D/o Late Shri Murli Manohar Sinha, aged about 27 years,
4. Sushiv Sinha (as per trial Court S/o Murli Manohar Sinha), aged about 21 years,

Respondents No.1 to 4 are R/o Village Subasupara Bagicha,
P.S. and Tahsil Bagicha, District Jashpur (C.G.)

(Applicants before trial Court)

5. Divisional Forest Officer (South), Sarguja Forest Division, Ambikapur, District Sarguja (C.G.)
6. State of Chhattisgarh, Through Collector Sarguja, District Sarguja (C.G.)

(Non-applicants before trial Court)
---- Respondents

For Petitioners: Mr. Shrawan Agrawal, Advocate.

For Respondents No.1 to 4: Mr. Vikas Pandey, Advocate.

For State/Respondents No.5 and 6: -

Mrs. Astha Shukla, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

05/08/2016

1. Shri Murli Manohar Sinha while working as Forest Ranger died on 8-2-2012. Smt. Manju Sinha – respondent No.1 herein, claiming to be wife of Late Murli Manohar Sinha, and respondents No.2 to 4 herein, claiming to be daughters and son, respectively, of Late Murli Manohar Sinha, filed an application under Section 372 of the Succession Act, 1925, claiming succession certificate in which the present petitioners also claimed succession on the ground that petitioner No.1 Shakuntala Sinha is wife of Late Murli Manohar Sinha and petitioners No.2 and 3 are sons of Late Murli Manohar Sinha. The succession Court after making due enquiry, granted succession certificate in favour of respondents No.1 to 4 herein holding respondent No.1 to be the legally wedded wife of Late Murli Manohar Sinha and respondents No.2 to 4 as daughters and son, respectively, of Late Murli Manohar Sinha. The petitioners herein filed appeal before the appellate Court. The appellate Court by its impugned order has held that petitioner No.1 herein is the second wife of Late Murli Manohar Sinha and petitioners No.2 and 3 herein are sons born out of the wedlock of Late Murli Manohar Sinha and his second wife Shakuntala Sinha,

and partly allowed the appeal holding that petitioners No.2 and 3 are also entitled for succession certificate along with respondents No.1 to 4, the original applicants before the trial Court, against which this revision has been preferred under Section 384(3) of the Succession Act, 1925.

2. Mr. Shrawan Agrawal, learned counsel appearing for petitioner No.1 Shakuntala Sinha, would submit that the concurrent finding recorded by the two Courts below holding Shakuntala Sinha to be the second wife of Late Murli Manohar Sinha is perverse and liable to be set aside. He would rely upon the decision of the Supreme Court in the matter of Chanmuniya v. Virendra Kumar Singh Kushwaha and another¹.
3. Whereas, Mr. Vikas Pandey, learned counsel appearing for respondents No.1 to 4, would support the impugned order and submit that no interference is required in exercise of jurisdiction under Section 384(3) of the Succession Act, 1925.
4. I have heard learned counsel for the parties and perused the impugned order as also the records of the two Courts below extensively and meticulously.
5. The Succession Court has clearly recorded a finding that marriage of Late Murli Manohar Sinha was solemnized with Manju Sinha on 12/13-3-1976. For reaching to that finding,

¹ (2011) 1 SCC 141

the trial Court relied upon Ex.P-4 which is a copy of the application filed for maintenance by Manju Sinha on 13-6-1985 and also relied upon Ex.P-5, a copy of reply filed by Late Murli Manohar Sinha in which in paragraph 1, he has admitted that his marriage was solemnized with Manju, not only this, in paragraph 2 of the order Ex.P-6 passed by the Chief Judicial Magistrate, Ambikapur in M.J.C. (Criminal) No.84/1985 (Smt. Manju Sinha and two others v. Murli Manohar Sinha) it has been clearly recorded that marriage of Manju Sinha with Murli Manohar Sinha on 13th March, 1976 is not in dispute and it is undisputed, and also in Ex.P-7 which is the judgment and decree passed by the trial Court. Thus, the order passed by the succession Court duly affirmed by the first appellate Court that Manju Sinha is the first wife of Late Murli Manohar Sinha and petitioner No.1 herein Shakuntala Sinha is his second wife, is the finding based on material available on record and I do not find any jurisdictional error in the said finding.

6. The first appellate Court while partly allowing the appeal has clearly held that petitioners No.2 and 3 herein being sons of Late Murli Manohar Sinha with her second wife Shakuntala Sinha are entitled for succession certificate by virtue of Section 16 of the Hindu Marriage Act, 1955. Therefore, I do not find any jurisdictional error in the impugned order. However, this decision will not bar petitioner No.1 Shakuntala

Sinha to question the order granting succession certificate in accordance with Section 387 of the Succession Act, 1925, as any adjudication made under Part X of this Act which includes Section 373 does not bar the same question being raised between the same parties in any subsequent suit or proceeding.

7. With the aforesaid observation, the civil revision is dismissed.

No order as to cost(s).

8. Consequently, the interim order stands vacated.

Sd/-
(Sanjay K. Agrawal)
Judge

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