

HIGH COURT OF CHHATTISGARH, BILASPUR

Civil Revision No.124 of 2015

1. Sanjay Das Haywar, S/o late Ramu Das Haywar, aged about 38 years.
2. Smt. Laxmi Bai @ Laxmin Haywar, W/o late Ramu Das Haywar, aged about 58 years.

Both are resident of Azad Chowk, Abhanpur Basti, Post Office Tahsil Abhanpur, District Raipur (CG).

---- Applicants

Versus

1. Vimala Bai Mohite, D/o Shri Deojirao Mohite, aged about 61 years.
2. Vinayak Das Haywar, S/o late Ramudas Haywar, aged about 27 years.
3. Manmohan Das Haywar, S/o late Ramudas Haywar, aged about 26 years.

Respondents No. 1 to 3 are resident of Rambagh Dhamtari, Post Dhamtari, Tahsil and District Dhamtari (CG).

4. Block Education Officer, Near City Kotwali Police Station, Dhamtari, Tahsil and District Dhamtari (CG).
5. Public at Large (Whoever are related to Respondent No.1).

---- Non-applicants

For Applicants	:	Shri Praveen Dhurandhar, Advocate
For Non-applicants	:	Ms. K. Tripti Rao, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

27/07/2016

(1) Shri Ramu Das Haywar died on 15.05.2012 while working as Head Master in Primary School Dani Tola, District Dhamtari. The

applicants herein filed an application under Section 372 of the Indian Succession Act, 1925 for grant of succession certificate before the 1st Civil Judge, Class-I, Dhamtari. The Succession Court, by its impugned order dated 06.01.2015 rejected the application holding that late Shri Ramu Das Haywar has executed an unregistered Will in favour of the non-applicants No.1, 2 & 3.

(2) Against which, the appeal was filed by the applicants herein before the First Appellate Court. That Court vide its impugned order dated 02.09.2015 affirmed the order of the Succession Court and dismissed the appeal.

(3) Against which, the instant civil revision has been filed by the applicants under Section 384 (3) of the Indian Succession Act, 1925.

(4) Learned counsel appearing for the applicants would submit that two Courts below have concurrently recorded a perverse finding and thereby, denied the succession certificate in favour of applicants as applicants No.1 & No.2 are class-1 heirs of late Shri Ramu Das Haywar.

(5) On the other hand, learned counsel appearing for the non-applicants would submit that Shri Ramu Das Haywar in life executed the Will in the favour of the non-applicants No.1, 2 & 3 and, therefore, both the Courts below have rightly held that the applicants are not entitled for succession certificate.

(6) I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.

(7) The two Courts below have concurrently held that the applicants are not entitled for succession certificate as Will has been executed by the deceased Shri Ramu Das Haywar in favour of the non-applicants No.1, 2 & 3. The said finding is based on the evidence available on record. I do not find any illegality or perversity in the said finding.

(8) The proceedings under Section 372 of the Indian Succession Act, 1925 are summary in nature. Decision of the Succession Court would not debar the trial of the same question in any suit or in any order proceeding between the same parties as provided in Section 387 of the Act of 1925. The applicants are at liberty to question the order rejecting their application for succession in accordance with law before appropriate forum.

(9) Accordingly, the civil revision being devoid of substance is liable to be and is hereby dismissed subject to above-stated observation.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-

