

HIGH COURT OF CHHATTISGARH, BILASPUR

Civil Revision No.107 of 2016

Smt. Nilmani Gandharv, W/o Shri Harilal Gandharv, aged about 60 years, R/o New Panchsheel Colony, Rajnandgaon, District Rajnandgaon (CG).

----Applicant

Versus

- 1 Smt. Kaushiliya Bai, W/o Shri Harilal, aged about 55 years, R/o Village Dundera, Post Dundera, Police Station Arjunda, Tahsil Gunderdehi, District Durg (Now Balod) C.G.
2. Sakuntala Bai, W/o Shri Harilal, R/o Ramnagar, Near Kaai Talab, Motipara Ward No.5, Rajnandgaon, District Rajnandgaon (CG).
3. Superintendent of Police, Office Baldeo Bagh, Over Bridge Road, Rajnandgaon, District Rajnandgaon (CG).
4. District Treasury Officer, Collectorate Branch Pension Department, Rajnandgaon, District Rajnandgaon (CG).
5. Branch Manager, Collectorate Branch, State Bank of India, Rajnandgaon (CG).
6. Public at Large (Whoever are related to)

----Non-applicants

For Applicant	:	Shri N.S. Dhurandhar, Advocate.
For Non-applicants	:	Shri Om Prakash Sahu, G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

01/09/2016

(1) Heard on admission.

(2) An application under Section 372 of Indian Succession Act, 1925 filed by non-applicant No.1-Smt. Kaushiliya Bai for grant of succession certificate before 1st Civil Judge, Class-I, Rajnandgaon. The Succession Court, by its impugned order

dated 27.08.2011 granted succession certificate in favour of Smt. Kaushiliya Bai.

(3) Against which, applicant-Smt. Nilmani Gandharv herein filed an appeal before the First Appellate Court. That Court vide its impugned order dated 12.04.2016 affirmed the finding of the trial Court and dismissed the appeal.

(4) Against which, the instant civil revision under Section 384(3) read with Section 388 of the Indian Succession Act, 1925 has been filed by the applicant-Smt. Nilmani Gandharv herein.

(5) Learned counsel appearing for the applicant would submit that the two Courts below have concurrently recorded a perverse finding and thereby, denied the succession certificate granted in favour of applicant as non-applicant No.1-Smt. Kaushiliya Bai is a legally wedded wife of late Shri Harilal Gandharv and succession certificate is granted in favour of her.

(6) I have heard learned counsel appearing for the parties and perused the records of both the Courts below with utmost circumspection.

(7) After hearing learned counsel for the parties and going through the records, I am of the considered opinion that the two Courts below have concurrently recorded a finding that non-applicant No.1-Smt. Kaushiliya Bai is a legally wedded wife of late Harilal Gandharv, who died in harness and she is a successor of

late Shri Harilal Gandharv is a finding of fact based on the evidence available on record, I do not find any jurisdictional error in the impugned order warranting interference by this Court in exercise of revisional jurisdiction.

(8) However, the applicant is at liberty to question the impugned order in a duly constituted appeal by virtue of provisions contained in Section 387 of the Succession Act, 1925 as a decision made under Part X upon any question of rights between the parties does not operate as res judicata, even where issues were raised and/or evidence was led. In a later suit, issues have to be decided afresh by civil Court uninfluenced by findings made in proceedings for grant of succession certificate, *Joginder Pal v. Indian Red Cross Society*, (2000) 8 SCC 143.

(9) Accordingly, the civil revision being without substance is liable to be and is hereby dismissed. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

L/-