

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 316 of 2016

- Krishan Kumar Singh S/o Late Chandra Shekhar Singh, Aged About 69 Years R/o Village Konargarh, Tahsil Pamgarh, District Janjgir Champa Chhattisgarh

---- Petitioner

Versus

1. Ramkumar Singh S/o Late Bhagwat Singh, Aged About 68 Years R/o Village Kosa, Tahsil Pamgarh, District Janjgir Champa Chhattisgarh
2. Jai Kumar Singh, S/o Late Bhagwat Singh, Aged About 65 Years R/o Village Kosa, Tahsil Pamgarh, District Janjgir Champa Chhattisgarh
3. Narendra Kumar Singh, S/o Late Bhagwat Singh, Aged About 60 Years R/o Village Kosa, Tahsil Pamgarh, District Janjgir Champa Chhattisgarh
4. State Of Chhattisgarh Through Collector, Janjgir Champa Chhattisgarh

---- Respondent

For Petitioner : Shri HV Sharma, Advocate.

For Respondents 1 to 3 : Shri PM Shriwas, Advocate.

For Respondent No.4/State : Shri B. Gopa Kumar, Deputy AG.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

29/08/2016

1. In a suit preferred by the respondents/plaintiffs, the petitioner/defendant is resisting the claim on the strength of will dated 12.9.1995 executed by one Umenda Bai in his favour.
2. The will being registered in the office of Sub Registrar and the original being lost, prayer for secondary evidence was allowed to a limited extent that the Sub Registrar would be summoned with the

copy of the will available in the office.

3. The plaintiffs raised an objection that although copy of the will available in the office of Sub Registrar can be produced but contents of the will cannot be proved by the Sub Registrar. The trial Court has accepted the objection and has directed that the Sub Registrar would only produce copy of the will but he would not prove the contents thereof.
4. In the considered opinion of this Court, the trial Court has not committed any error of law or any material irregularity while upholding the objection raised by the plaintiffs. The will is to be proved in the manner required under Section 68 & 69 of the Evidence Act and Section 63 of the Succession Act, according to which, if the document is required to be attested in law, execution thereof shall be proved by attesting witnesses. The Sub Registrar being custodian of the record available in his office and not a person who can prove the will under Sections 68 & 69 of the Evidence Act or under Section 63 of the Succession Act, the trial Court is fully justified in passing the impugned order.
5. For the foregoing, the Writ Petition being devoid of any substance deserves to be and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve