

HIGH COURT OF CHHATTISGARH, BILASPUR**Civil Revision No.141 of 2013**

Shantimani, wife of Late Rajesh John, aged about 51 years, residence of Nayamunda Ward, Jagdalpur, P.S. Jagdalpur, District Bastar, Chhattisgarh

---Applicant

Versus

1A. Gajraj Singh, son of Padam Singh, aged about 40 years, resident of Near Chopda Saw Mill, Nayamunda, Ward, Jagdalpur, P.S.Jagdalpur, District Bastar (CG)

2. Lalita D/o Gajraj Singh (deleted)

3. Babita Singh, wife of Jath Sahab, Professor, B.S.P. Center, Science and Technology Training Center, Gwalior, Madhya Pradesh

4. Suket Singh, son of Gajram Singh, Upper Division Teacher, Higher Secondary School, Gariabandh, District Raipur (CG)

5. Rambir Singh, son of Gajraj Singh (deleted)

6. Surendra Singh, son of Gajraj Singh, Teacher, Model Higher Secondary School, Farasgaon, Tahsil Kondagaon, P.S. Kondagaon, District Bastar (CG)

---Non-applicants

For Applicant	:	Mr.C.J.K.Rao, Advocate
For Non-applicants 4 & 6	:	Mr. Akash Pandey, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

28/09/2016

1. Rajesh John died in harness 11.8.2000. Application for succession certificate was filed by Smt.Rukni Bai, his mother, before the Succession Court. During pendency of succession proceedings, Rukni Bai died and brothers & sisters of Rajesh John filed applications for substitution on 11.1.2002 and 7.2.2002, which was rejected by the Succession Court. Thereafter, separate applications for succession

certificate was filed by brothers & sisters of Rajesh John i.e. Smt.Shalini Nayan and others on 11.3.2002.

2. The Succession Court by its order dated 6.11.2004 in Succession Case No.13/2001 holding that Smt.Shalini Nayan and others are successor of late Rajesh John and held entitled for claim.

3. Against which, Smt.Shanti Bai claiming to be wife of Rajesh John preferred Misc. Civil Appeal No.16/2007 before the First Additional District Judge, Bastar at Jagdalpur, which was rejected by the Appellate Court by order dated 31.1.2013.

4. Against the said order, the present civil revision under Section 115 of the CPC has been filed.

5. Mr.C.J.K.Rao, learned counsel for the applicant would submit that concurrent finding of fact recorded by the two Courts below are perverse and is liable to be dismissed.

6. On the other hand, Mr.Akash Pandey, learned counsel for respondents No.4 & 6 would support the order impugned.

7. I have heard learned counsel appearing for the parties and perused the order impugned.

8. The two Courts below have concurrently held that legal representatives of the non-applicants are successor of deceased Rajesh John and the applicant is not legally wedded wife of deceased Rajesh John is the finding of fact based on the evidence available on record.

9. I do not find any illegality or infirmity in the order impugned.

However, decision of the Succession Court as affirmed by the Appellate Court would not come in the way of the applicant by virtue of the provisions contained in Section 387 of the Succession Act, 1925 as the decision arrived at in the proceeding initiated under the Succession Act would not be a bar to the trial of the same in any suit or any other proceeding as the decision under Part X upon any question of rights between the parties does not operate as res judicata in the subsequent proceedings.

10. With the aforesaid liberty, the civil revision stands disposed of.

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-