

HIGH COURT OF CHHATTISGARH, BILASPUR**WP (227) No.452 of 2015**

Dore Lal Soni S/o Late Shri Bedi Lal Soni, aged about 26 years, R/o Chikni Pali, Tahsil Kartala, Dist-Korba (CG)

---- Petitioner

Versus

1. Smt. Jamuna Soni D/o Late Shri Bedi Lal, aged about 34 years, R/o Chikni Pali, Thana & Tehsil-Kartala, Distt.-Korba (CG) W/o Satyendra Nath Soni R/o at present Sakti, Ward No.13, Tehsil-Sakti, Dist-Janjgir-Champa (CG)
2. Branch Manager, Sahakari Bank, Hardi Bazar, Tehsil-Katghora, Distt.-Korba (CG)
3. General Manager, Zila Sahkari Bank, Nehru Chowk, Bilaspur, Distt.-Bilaspur (CG)
4. General public who is concern with or relative of Late Bedi Lal Soni
5. Santosh Bai, aged-27 years, W/o Dore Lal Soni R/o Chikni Pali, Tehsil & Thana-Kartala, Distt.-Korba (CG)
6. Kshetriya Bhavishya Nidhi Ayukt (Office), Indira Gandhi Vyavasayik Parisar, Pandri, Raipur, Distt.-Raipur (CG)
7. Chief Executive Officer, Zila Sahkari Kendriya Bank, Nehru Chowk, Bilaspur, Distt.-Bilaspur (CG)

---- Respondents

For Petitioner	:	Mr.Sanjay Patel, Advocate
For Respondent No.1	:	Mr.Tarun Dadsena, Advocate
For Respondent No.2	:	Mr.Vikas Pandey, Advocate
For Respondent No.6	:	Mr.Sunil Pillai, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

27/06/2017

1. Respondent No.1 herein filed an application under Section 372 of the Indian Succession Act, 1925 (hereinafter called as 'Act of 1925'), during pendency of that application she preferred an application under Section 151 of the Code of Civil Procedure to deposit the amount of provident fund in

the Succession Court i.e. ₹ 2,36,137/-². The Succession Court without deciding the main application, passed the interim order to deposit such an amount before the Court, against which, this writ petition has been filed.

- 2.** Learned counsel for the petitioner would submit that such a course adopted by learned Succession Court is contrary to law as first the application under Section 372 of the Act of 1925 has to be tried and thereafter the application under Section 151 of the CPC has to be granted and as such, no such interim order before granting succession certificate would be passed.
- 3.** On the other hand, learned counsel for the respondents would oppose the writ petition.
- 4.** I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.
- 5.** Fact remains that application under Section 372 of the Act of 1925 is pending consideration and as such, enquiry has to be conducted on such an application and thereafter final order rejecting or granting succession has to be passed. Without making an enquiry and without adjudication as to the entitlement of respondent No.1, such an interim order is uncalled for and deserves to be set aside.
- 6.** Therefore, the impugned order is set aside. The Succession

Court is directed to try such application in accordance with the Act of 1925 and thereafter pass the final order within a period of three months from the date of receipt of copy of this order.

7. The writ petition is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)

Judge

B/-