

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 86 of 2017

1. Rajesh Kumar S/o Late Shri Ghasiram Sinha, Aged About 33 Years
2. Rambai, Wd/o Late Shri Ghasiram Sinha, Aged About 64 Years

Both R/o Village Saigona, Tahsil Saja, District Bemetara (Chhattisgarh)

---- Petitioner

Versus

1. Ku. Nisha, R/o Village Saigona, Tahsil Saja, District Bemetara (Chhattisgarh)
2. Ku. Asha, R/o Village Saigona, Tahsil Saja, District Bemetara (Chhattisgarh)
3. Badrun Nisha Quareshi, Staff Nurse, Civil Dispensary Bemetara, R/o Village Saigona, Tahsil Saja, District Bemetara (Chhattisgarh)
4. Sarita Jain W/o Shri Satish Jain, R/o House No. 730, Senior M. I. G. Sector- 2, D. D. Nagar, Raipur (Chhattisgarh)
5. Anju Sinha W/o Shri Govind Sinha, R/o Santosh Kirana Stores, Near Sai Mandir, Danganiya Raipur (Chhattisgarh)

---- Respondents

For Petitioners

Shri R. R. Soni, Advocate

For Respondent-Caveator

Shri Mateen Siddiqui, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

25/01/2017

1. The issue pertains to mutation of name of the parties over the land belonging to Late Ghasiram Sinha. The petitioners Rajesh Kumar and Rambai are the son and widow of Ghasiram Sinha. The respondent No.1 Nisha and respondent No.2 Asha claimed to be the daughters of Ghasiram Sinha from his second wife Badrun Nisha Quareshi, the respondent No.3, whereas the respondent No.4 Sarita Jain and respondent No.5 Anju Sinha are admittedly the daughters from the first wife of Late Ghasiram Sinha.
2. In mutation proceedings initiated by the petitioner No.1 after the death of his father Ghasiram Sinha, the Revenue Authorities have directed for mutation of the name of petitioners as well as the respondents. The direction to mutate the name of respondent Nos.1 to 3, along with other parties, has been made on the ground that the respondent No.3 is the second wife of the deceased and the respondent Nos.1 & 2 are the daughters of the deceased from his second wife namely respondent No.3 Badrun Nisha Quareshi.
3. The question as to whether the respondent No.3 was residing with the deceased and had attained the status of his second wife either legally married or otherwise would involve adjudication of disputed question. A reading of the discussion on issue No. (II) by the Board of Revenue would

reveal that the petitioners have alleged that the respondent Nos.1 & 2 were already born before the respondent No.3 started residing with the deceased, therefore, this question as to whether the respondent Nos.1 & 2 are the legitimate or illegitimate daughters of the deceased is also a disputed question of fact, which cannot be gone into under Article 226 of the Constitution of India.

4. In view of the above, without commenting on the merits of the matter, it is directed that the petitioners may avail the remedy of seeking a declaration from the Civil Court about the status of the respondent Nos.1 to 3 and their entitlement to succeed to the property left by Late Ghasiram Sinha.
5. For a period of 3 months from today, the status of revenue records, as it exists today, shall be maintained by all concerned.
6. Accordingly, the writ petition is disposed of.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

Nirala