

HIGH COURT OF CHHATTISGARH, BILASPUR**Civil Revision No.149 of 2016**

Samudra Devi W/o Late Shailendra Prasad, Aged About 42 Years R/o Channa Dafai, Haldibadi, Chirmiri, Tahsil Khadgawa, Distt. Koriya, Chhattisgarh

---- Applicant

Versus

1. Smt. Runa Devi W/o Late Ajay Kumar, Aged About 25 Years R/o Domanhill, Chirmiri, Tahsil Khadgawa, Distt. Koriya, Chhattisgarh
2. Ku. Mudhu Kumari D/o Late Ajay Kumar, Aged About 11 Years Minor Smt. Runa Devi, Aged About 25 Year, W/o Late Ajay Kumar, R/o Domanhill, Chirmiri, Tahsil Khadgawa, Distt. Koriya, Chhattisgarh
3. Mullu Sagar S/o Late Ajay Kumar, Aged About 9 Years Minor Smt. Runa Devi, Aged About 25 Year, W/o Late Ajay Kumar, R/o Domanhill, Chirmiri, Tahsil Khadgawa, Distt. Koriya, Chhattisgarh
4. Chief General Manager, S.E.C.L. Chirmiri Area, G.M.Complex, Chirmiri, Pondi, Distt. Koriya, Chhattisgarh
5. Deputy Regional Mines Manager, Jilmill Subarea, Pandopara Colliery, Tahsil Baikunthpur, Distt. Koriya, Chhattisgarh
6. Deputy Regional Mines Manager, N.C.P.H. Colliery Chirmiri, Tahsil Khadgawa, Distt. Koriya, Chhattisgarh
7. Regional Commissioner, Coal Mines Provident Fund, Gupteshwar Road, Shakti Nagar, Jabalpur (M.P.)
8. General Public

---- Non-Applicants

For Applicant:	Shri Parag Kotecha, Advocate.
For Non-Applicants No:1 to 3:	Shri Chandresh Shrivastava, Advocate.
For Non-Applicants No.4 to 6:	Shri HB Agrawal, Senior Advocate along with Smt Prabha Sharma, Advocate.

Single Bench:Hon'ble Shri Sanjay Agrawal, J
Order On Board

06.10.2017

1. This is the Revision preferred by the Applicant-Smt Samudra Devi under Section 384 (3) of the Indian Succession Act, 1925 (for short 'the Act of

1925') against the order dated 07.09.2016 passed by the 2nd Additional District Judge, Manendragarh, District Korea in Civil Appeal No.12-A/2014 by which the lower appellate Court, while modifying the order dated 25.7.2014, passed by the Civil Judge, Class-I, Chirmiri in Succession Case No.1/2013, has allowed the Appeal in part.

2. The undisputed facts of the case are that Smt Runa Devi and her children instituted a Petition enumerated under Section 372 of the Act of 1925 for issuance of a certificate for obtaining an amount of Rs.17 lacs, which is deposited in SECL and was payable to one Ajay Kumar, who was the husband of the Applicant Runa Devi. It is pleaded in the application that Ajay Kumar was performing his duty as a general labourer in SECL, Pandavpara Colliery, Baikunthpur and has expired on 15.3.2012. Therefore, the Applicants being the legal heirs of said Ajay Kumar are entitled to withdraw the said amount from the SECL, therefore, an application was submitted in this regard for issuance of succession certificate as per the provisions prescribed under Section 372 of the Act of 1925.

3. During the pendency of the said application, the present Applicant Smt Samudra Devi has submitted an application for her impleadment in the said proceeding by filing an application under Order 1 Rule 10 of the Code of Civil Procedure, 1908 and after the acceptance of her application, she was impleaded as Non-Applicant No. 6 in the said proceeding.

4. The aforesaid claim of the Applicants was contested by Non-Applicant No.6 namely Samudra Devi, the mother of the deceased Ajay Kumar by submitting *inter alia* that since the Applicant Runa Devi has started living separately as per the customary law, therefore she is not entitled for claiming any share with regard to the alleged amount which was payable to said Ajay

Kumar.

5. After considering the pleadings of the parties and that by considering the evidence of the parties, the trial Court has granted succession certificate vide order dated 25.7.2014 by observing that the Applicants and Non-Applicant No.6 are entitled to claim 11,68,192/- and not Rs.17 lacs as claimed by the Applicants. As a consequence, the trial Court upon considering each of their share has granted a sum of Rs.8,76,144/- to the Applicants, the wife of the deceased and his minors, while a sum of Rs.2,92,042/- to the mother of the deceased Ajay Kumar, namely Samudra Devi, the present applicant herein.

6. Being aggrieved with the aforesaid order, the present Applicant Samudra Devi has preferred the Civil Appeal as per the provisions prescribed under Section 384 of the Act of 1925. In the said Appeal, it was stated that since the Applicant Runa Devi has deserted her husband Ajay Kumar and started living separately with some other person, therefore, she is not entitled to claim any share in the alleged amount which was payable to the deceased Ajay Kumar.

7. The appellate Court, in turn, has allowed the Appeal in part and awarded 1/4th share to each of the Applicants as well as the Non-Applicant No.6 Samudra Devi by way of its impugned judgment dated 7.9.2016.

8. Being aggrieved, Non-Applicant No.6-Samudra Devi has preferred this Revision under Section 384 (3) of the Act of 1925. Shri Parag Kotecha, learned Counsel for the Applicant submits that the order impugned as passed by the lower appellate Court is apparently contrary to law. He submits further that since the Applicant Runa Devi has started living separately from her husband, therefore she is not entitled to claim any interest with regard to the

alleged amount which was payable to the deceased Ajay Kumar. He therefore, submits that the order impugned deserves to be set aside.

9. I have heard learned Counsel for the Applicant and perused the entire record carefully.

10. Undisputedly, the said Ajay Kumar was a general labourer in SECL and has expired on 15.3.2012. It is also undisputed that the alleged amount of Rs.11,68,192/- was payable to him. For obtaining the said amount, an application has been filed by the Applicants under Section 372 of the Act of 1925 that since they are the legal heirs of the deceased Ajay Kumar, therefore, the succession certificate be granted to them by authorizing to withdraw the said amount.

11. The trial Court as well as the lower appellate Court, after considering the evidence of the parties, has come to the conclusion that the applicant Runa Devi was also entitled to inherit the share of deceased Ajay Kumar in equal share along with Applicants No.2 & 3 and Non-Applicant No.6.

12. By virtue of Section 8 of the Hindu Succession Act, 1956, the Applicants and Non-Applicant No.6, are all come under Clause – 1 heirs as provided under the said provision of the Hindu Succession Act, 1956. Therefore, the appellate Court has not committed any illegality in granting the alleged amount in equal share to all the legal heirs of the deceased Ajay Kumar.

13. In view of the foregoing discussions, I do not find any infirmity in the judgment impugned which deserves to be and is hereby affirmed. Consequently, the revision petition being devoid of any merit is hereby dismissed at the admission stage itself. No order as to costs.

Sd/-

(Sanjay Agrawal)
JUDGE