

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 896 of 2013**

Ramakant, aged about 48 years, S/o Late Deo Saran, R/o 51, EWS Colony,
Nayapura, Stainley Road, Police Station Shiv Kuti, Tahsil Sadar, Distt. Allahabad (U.P.)

----Petitioner/Defendant

Versus

1. Branch Manager, State Bank of India, Manendragarh, Distt. Koriya
2. Branch Manager, Axis Bank, Manendragarh, Distt. Koriya
3. Smt. Sangitaram, W/o Late Ramkumar, aged about 44 years,
4. Ku. Anannya, aged about 2 and half year, D/o Late Ramkumar, being minor through mother Smt. Sangitaram, W/o Late Ramkumar

Respondents No. 3 and 4 R/o Kendriya Vidyalaya, Manendragarh, Distt Koriya
.....Plaintiffs

5. Smt. Satni Devi, aged about 80 years, W/o Devsharan
6. Ajit Kumar, aged about 35 years, S/o Ramkumar
7. Arvind Kumar, aged about 30 years, S/o Ramkumar
8. Ajit Kumar, aged about 30 years, S/o Ramakant

Respondents No. 5 to 8 are resident of Handiya, Distt. Allahabad (U.P.)

9. General Public

---- Respondents

For Petitioner : Mr. Parag Kotecha, Advocate
For Respondents No. 3 & 4 : Mr. Adil Minhaj, Advocate.

And**Writ Petition (227) No. 312 of 2014**

1. Smt. Sangeeta Ram, Wd/o Late Shri Ramkumar, aged about 44 years, Teacher - Kendriya Vidyalaya, Manendragarh,
2. Kumari Ananya, D/o. Late Shri Ramkumar, aged about 2 ½ years, Minor through natural guardian mother Smt. Sangeeta Ram,

Both R/o. Near Kendriya Vidyalaya, Manendragarh, Vivekanand Colony,
Manendragarh, District (Civil and Revenue) Koria (C.G.)

----Petitioners/Applicants

Versus

1. Branch Manager, State Bank of India, Branch Manendragarh, Distt. (Civil and Revenue) Korla (C.G.)
2. Branch Manager, Axis Bank, Branch Manendragarh, Distt. (Civil and Revenue), Korla (C.G.)
3. Shri Ramakant, S/o. Late Devsharan Kumar, aged about 48 years, R/o. Village Tikri, Tahsil Handiya, District Allahabad (U.P.)
4. General Public
5. Smt. Satni Devi, Wd/o. Late Devsharan, aged about 80 years,
6. Ajit Kumar, S/o. Late Ramkumar, aged about 35 years,
7. Arvind Kumar, S/o. Late Ramkumar, aged about 30 years,
8. Ajit Kumar, S/o. Ramakant, aged about 24 years,

Respondents No. 5-8, R/o. Village Chak Sinder, Post Mugarsan, Block Saidabag, Tahsil Hadiya, District Allahabad (U.P.)

---- Respondents

For Petitioners : Mr. Adil Minhaj, Advocate.
For Respondent No. 3 : Mr. Parag Kotecha, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

09/10/2018

- (1) Since common question of law and fact is involved in both the writ petitions, they are heard together and are being decided by this common order.
- (2) For the sake of convenience, W.P. (227) No. 896 / 2013 is taken-up as the lead case.
- (3) Ramkumar died on 17.02.2013. His widow Smt. Sangeeta Ram & daughter Ku. Ananya filed an application under Section 372 of the Indian Succession Act.
- (4) After notice to the respondents, Ramakant / petitioner herein who is brother of late Ramkumar, moved an application under Order 1 Rule 10(2) of the CPC for impleading five other persons including divorced wife of Ramkumar i.e. Smt. Prabha Kaithwas and his son namely Ajit

Kumar /respondent No. 8 as party non-applicants in Succession Case No. 6/2013.

(5) The Succession Court, by its impugned order dated 30.10.2013, allowed the application in part directing the impleadment of four non-applicants except Smt. Prabha Kaithwas, who is former wife of late Ramkumar.

(6) Smt. Sangeeta Ram and Ku. Ananya (petitioners in WP (227) No. 312/2014) filed the writ petition questioning the impleadment of son of Ramakant i.e. Ajit Kumar, respondent No. 8 in WP (227) No. 312/2014 whereas Ramakant (petitioner in W.P. (227) No. 896/2013) filed the writ petition for non-impleadment of former wife of late Ramakant i.e. Smt. Prabha Kaithwas.

(7) I have heard learned counsel appearing for the parties and perused the order impugned with utmost circumspection.

(8) The question for consideration is whether the former wife of late Ramkumar is necessary party.

(9) Admittedly, the High Court of Madhya Pradesh in First Appeal No. 133/2004 (Ram Kumar Vs. Smt. Prabha Kaithwas & another), decided on 3.11.2009, passed decree of divorce granting divorce between late Ram Kumar and Smt. Prabha Kaithwas and thereafter Ramkumar died on 17.02.2013, as such, the former wife is neither necessary party nor proper party for just and proper decision in the said application. Therefore, Writ Petition No. 896/2013 filed by petitioner Ramakant is liable to be dismissed.

(10) However, as far as impleadment of Ajit Kumar, son of respondent No. 3- Ramakant is concerned, the Succession Court has directed him to be impleaded on the ground that since respondent No. 3 – Ramakant has been nominated as a nominee in the service Book of late Ramkumar, therefore, his son Ajit Kumar is also proper / necessary party in the succession case, which, in the opinion of this Court, is not in accordance with law as respondent No. 3- Ramakant himself being a nominee has been directed to be impleaded as necessary party in

Succession Case No. 06/2013. Thus, Writ Petition (227) No. 312/2014 filed by Smt. Sangeeta Ram & Ku. Ananya deserves to be allowed.

(11) Accordingly, Writ Petition (227) No. 312 /2014 filed by Smt. Sangeeta Ram & another is allowed. Part of the order impugned dated 30.10.2013, by which respondent No. 8 Ajit Kumar is directed to be impleaded in the succession case, is set aside. Rest of the conditions mentioned in the order impugned shall remain intact.

(12) In view of above, Writ Petition (227) No. 896/2013 filed by petitioner - Ramkant is dismissed whereas Writ Petition (227) No. 312 /2014 filed by Smt. Sangeeta Ram & another is allowed.

(13) Since the succession case is pending since 22.03.2013, the Succession Court is directed to decide the same expeditiously preferably within a period of two months from the date of receipt of certified copy of this order.

(14) Copy of the order be sent to the Succession Court through concerned District Judge.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-

