

**HIGH COURT OF CHHATTISGARH, BILASPUR****Civil Revision No. 164 of 2016**

1. Ku. Lalita Shrirange, D/o. Late Shri Kaluram Shrirange, about 45 years,
2. Ku. Karuna Shrirange, D/o. Late Shri Kaluram Shrirange, about 38 years.
3. Ku. Kirana Shrirange, D/o Late Shri Kaluram Shrirange, about 35 years.
4. Ku. Aruna Shrirange, D/o. Late Shri Kaluram Shrirange, about 40 years.
5. Smt. Heera Shrirange, D/o Late Shri Kaluram Shrirange, about 32 years.

All are R/o. Stationpara, behind Ambedkar Statue Thana & Tahsil –  
Rajnandgaon, Civil & Revenue Distt. - Rajnandgaon (C.G.)

**----Applicants/plaintiffs**

**Versus**

1. Smt. Tripti Shrirange, Wd/o. Late Shri Virendra Kumar Shrirange, about 27 years, Stationpara, Ward No. 10, Rajnandgaon, Thana & Tahsil – Rajnandgaon, Civil & Revenue Distt.- Rajnandgaon (C.G.)
2. Manager, Bhartiya Khadya Nigam, Rajnandgaon, Distt. Rajnandgaon (C.G.)
3. Public at large

**---- Respondents/defendants.**

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| For Applicant        | : Shri Sunil Sahu, Advocate.   |
| For Respondent No.1  | : Shri Uttam Pandey, Advocate. |
| For Respondent No. 2 | : Shri R.S. Patel, Advocate.   |

**Hon'ble Shri Justice Sanjay K. Agrawal**

**Order On Board**

**04/12/2018**

(1) Invoking jurisdiction of this Court under Section 384 (3) of the Indian Succession Act, 1925 (henceforth “the Act of 1925”), applicants herein preferred civil revision calling in question the legality, validity and correctness of the order dated 15.10.2014 passed

by Misc. Appellate Court in Misc. Civil Appeal No. 03/2014 whereby the said Court has directed to grant succession certificate in favour of respondent No. 1 herein.

(2) Shri Virendra Kumar, while working as Kuli in the office of Food Corporation of India / respondent No. 2, died on 21.06.2011. During his life time, he has nominated one of his sisters namely Ku. Lalita Shrirange as nominee for obtaining the amount of Rs.6,18,717/-, which was deposited during his service tenure in the office of Food Corporation of India. Upon death of Shri Virendra Kumar, applicants, who are sisters of the deceased employee, made an application under Section 372 of the Act of 1925 for grant of succession certificate to obtain the aforesaid amount. In the said application, wife of deceased – Virendra Kumar namely Smt. Tripti Shrirange, respondent No. 1 herein was also impleaded as party non-applicant.

(3) The Succession Court, by its order dated 19.12.2013, after appreciating the oral and documentary evidence available on record, rejected the said application finding that applicant No. 1 – Ku. Lalita Shrirange is the nominee of late Virendra Kumar but she is not the class I heir as per Schedule 1 enacted under Section 8 of the Hindu Succession Act, 1956 (henceforth the Act of 1956”); and also held that respondent No. 1, being the legally wedded wife of late Virendra Kumar, is class I heir as per Schedule 1 enacted under Section 8 of the Act of 1956 and granted liberty in her favour to file fresh application for succession in accordance with law.

(4) Respondent No. 1 herein filed a miscellaneous appeal before the appellate Court questioning the order of the Succession Court stating *inter alia* that filing of separate application for succession Certificate was not necessary and she being the legally wedded wife and class I heir of the deceased is entitled for grant of succession

certificate.

(5) The Misc. Appellate Court by its impugned order dated 15.10.2014, remanded the matter to the trial Court to proceed in accordance with law for grant of succession certificate in favour of respondent No.1 / wife of deceased employee.

(6) Feeling aggrieved and dissatisfied with that order, the applicants, who are sisters of deceased – Virendra Kumar, filed this civil revision petition under Section 384 (3) of the Succession Act questioning that order.

(7) Mr. Sunil Sahu, learned counsel appearing for the applicant would submit that the appellate court is absolutely unjustified in granting the appeal by remanding the matter to the trial Court with a direction to proceed in accordance with law for grant of succession certificate in favour of respondent No. 1 as the remedy of the respondent No.1 was to file separate application under Section 372 of the Act, 1925 for grant of succession certificate, if any, and in that application, such an order could have been passed by the Succession Court in favour of respondent No. 1 and, as such, order of the appellate Court is liable to be set aside.

(8) Per contra, Shri Uttam Pandey, counsel for respondent No.1 would submit that the proceeding under Section 372 of the Act, 1925 is a summary proceeding and, therefore, prima facie title / entitlement has to be seen and, as such, respondent No.1 being the class -I heir of deceased has been rightly held entitled for succession certificate by the misc. appellate Court, which deserves affirmation.

(9) Shri R.S. Patel, learned counsel for respondent No. 2 would support the impugned order.

(10) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and gone the record with utmost circumspection.

(11) In order to decide the dispute raised herein, it would be advantageous to notice the provisions contained in the Indian Succession Act, 1925. Section 372 of the Act of 1925 provides, application for certificate. Section 373 provides, procedure on application. Ultimately, under Section 373(2) of the said Act, succession certificate has to be granted by the Court. Contents of certificate is prescribed in Section 381 of the Act of 1925. Section 383 of the Act of 1925 prescribes for revocation of certificate stating that a certificate granted under this Part may be revoked on the grounds mentioned in clauses (a) to (e) of Section 383. Section 387 provides for effect of decisions under the Act, and liability of holder of certificate thereunder. It provides that no decision under Part X upon any question of right between any parties shall be held to bar the trial of the same question in any suit or in any other proceedings between the same parties.

(12) The Supreme Court in the matter of **Madhvi Amma Bhawani Amma and others Vs. Kunjikutty Pillai Meenakshi Pillai and others**<sup>1</sup> has held that proceeding for grant of succession certificate are summary proceedings and it is only a determination of prima facie title. Paragraphs 13 & 14 of the report state as under :-

“13. This sub-section reveals two things, first adjudication is in a summarily proceedings and secondly if the question of law and fact are intricate or difficult, it could still grant the said certificate based on his prima facie title. In other words, the grant of certificate under it is only a determination of prima facie title. This as a necessary

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1 AIR 2000 SC 2301

corollary confirms that it is not a final decision between the parties. So, it cannot be construed that mere grant of such certificate or a decision in such proceedings would constitute to be a decision on an issue finally decided between the parties. If that be so how could principle of res judicate be made applicable to a case in a subsequent suit ? The effect of such certificate is also laid down in Section 381 which is quoted hereunder :-

“Section 381 :

Effect of certificate : Subject to the provisions of this Part, the certificate of the District Judge shall, with respect to the debts and securities specified therein, be conclusive as against the persons owing such debts or liable on such securities, and shall, notwithstanding any contravention of Section 370, or other defect, afford full indemnity to all such persons as regards all payments made, or dealings had, in good faith in respect of such debts or securities to or with the person to whom the certificate was granted.

14. So, this certificate merely affords full indemnity to the debtor for the payment he makes to the person holding such certificate. Thus when the debtor pays the debts or the securities as specified in the certificate, to the holder of such certificate, then on such payment, he is absolved from its obligation to pay to any one else as it conclusively concludes his part of his obligation and such payment is construed to be in good faith. This safeguards such debtor or person liable to pay that he may not be later dragged into any litigation which may arise subsequently inter se between the claimants. The use of words “good faith” in Section 381 reinforces that decision in these proceedings are not final. When statute recognizes such payment to be in good faith gives clear under current message that there may be in future better claimant but that would not effect the indemnification of the debtor. Thus we find accumulatively because of the grant of succession Certificate being

for a limited purpose, limited in its sphere, the declaration of title being prima facie, payment tendered is declared to have been in good faith, leads to only on conclusion that any decision made therein cannot be treated to be final adjudication of the rights of the parties, except such declaration being final for the purpose of these proceedings. If that be so, the amount received by the holder of such certificate can yet be questioned, and in subsequent proceeding it may hold it to belong to other claimant, including the contesting party.”

(13) In the matter of **Chhotu Dewangan & another Vs. Smt. Urmilabai & others**<sup>2</sup>, this Court has held that mere fact of nomination made by the deceased did not create any right to obtain succession certificate in favour of the nominee to the exclusion of the actual legal heirs, as mentioned in Schedule 1 to Section 8 of the Hindu Succession Act.

(14) Subsequently, the principle of law laid down in the aforesaid case has been followed and reiterated by the Supreme Court in the matter of **Joginder Pal Vs. Indian Red Cross Society and others**<sup>3</sup> holding that proceeding for grant of succession certificate are summary in nature and that no rights are finally decided in such proceedings. It was held as under:-

“..... These Sections make it clear that the proceedings for grant of succession certificate are summary in nature and that no rights are finally decided in such proceedings. Section 387 puts the matter beyond any doubt. It categorically provides that no decision under Part X upon any question of right between the parties shall be held to bar the trial of the same question in any suit or any other proceeding between the same parties. Thus

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<sup>2</sup> 2007 (1) C.G.L.J. 58

<sup>3</sup> AIR 2000 SC 3279

Section 387 permits the filing of a suit or other proceeding even though a succession certificate might have been granted.”

(15) The aforesaid two decisions of the Supreme Court have been followed by this Court in the matter of **Smt. Sevati Vs. Smt. Genda Bai & others**<sup>4</sup>.

(16) Reverting to the facts of the case in light of principle of law laid down by the Supreme Court in the above-cited cases and this Court in the above-cited case, it is quite vivid that indisputably respondent No.1 being the legally wedded wife of deceased Virendra Kumar is class I heir as per Schedule 1 enacted under Section 8 of the Act of 1956, therefore, she has prima facie title on the amount, which is lying deposited with the Food Corporation of India and, as such, the misc. appellate Court rightly concurred with the finding of Succession Court that respondent No.1 being the class – I heir of deceased Virendra Kumar is entitled to succession certificate in her favour in preference to applicant No. 1 – Ku. Lalita Shrirang, who is the sister of deceased Virendra Kumar and during his life time deceased Virendra Kumar has nominated applicant No.1 for obtaining the aforesaid amount, which was deposited with the Food Corporation of India and rightly directed for grant of succession certificate in favour of respondent No.1 without resorting her to file a separate application under Section 372 of the Act, 1956, which is in accordance with law.

(17) In view of the aforesaid legal analysis, it is quite apparent that respondent No. 1, being the legally wedded wife of late Virendra Kumar, is class I heir as per Schedule 1 enacted under Section 8 of the Act of 1956 and is entitled for grant of succession certificate, which has rightly been granted by the Miscellaneous appellate Court directing the Succession Court to grant succession certificate in her favour. I do not find

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4 2016 (4) C.G.L.J. 482

any illegality or perversity in the impugned order.

(18) Applying the above well settled principle of law to the facts of the present case, no case is made out by the applicants warranting interference of this court in exercise of its revisional jurisdiction.

(19) In view of the foregoing, the civil revision, being devoid of merit, is liable to be and is hereby dismissed leaving the parties to bear their own costs.

Sd/-

(Sanjay K. Agrawal)  
Judge

D/-

