

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 484 of 2018**

1. Anita Jurri, W/o Late Vishnu Ram Jurri, aged about 35 years, by caste : Gond, resident of Village- Markatola, Tahsil Charama, District- North Bastar Kanker (C.G.)
2. Devkunwar Jurri, W/o Late Ganda Ram Jurri, aged about 70 years, by caste : Gond, resident of Village- Markatola, Tahsil Charama, District – North Bastar, Kanker (C.G.)

----Petitioner/Non-applicants**Versus**

1. Smt. Syambati, W/o Vishnu Ram Jurri, aged about 47 years, R/o Village Karli, Tahsil Gidam, District Dantewada (C.G.)
2. Superintendent of Police, Dantewada, District Dantewada (C.G.)
3. All Public concerned persons

---- Respondents/Applicant

For Petitioners	: Shri D.N. Prajapati, Advocate.
For Respondent No. 1.	: Shri Shrawan Agrawal, Advocate.
For State	: Shri Arun Sao, Dy. Advocate General

And**Writ Petition (227) No. 506 of 2018**

Smt. Syambati, W/o Late Vishnuram Jurri, aged about 47 years, R/o Village Karli, Tahsil Geedam, District Dantewada (C.G.)

----Petitioner/Applicant**Versus**

1. Superintendent of Police, Dantewada, Distt. Dantewada (C.G.)
2. General Public to whom it may concern
3. Smt. Anita Jurri, W/o Late Vishnuram Jurri, aged about 35 years, caste : Gond, R/o Village- Markatola, Tahsil Charama, District- North Bastar Kanker (C.G.)
4. Dev Kunwar Jurri, W/o Late Gandaram Jurri, aged about 70 years, caste -Gond,

R/o Village- Markatola, Tahsil Charama, District – North Bastar, Kanker (C.G.)

---- Respondents/Applicant

For Petitioner	: Shri Shrawan Agrawal, Advocate.
For Respondent No. 3 & 4	: Shri D.N. Prajapati, Advocate.
For State	: Shri Arun Sao, Dy. Advocate General

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

01/11/2018

(1) These writ petitions were heard analogously and are disposed of by this common order as the common question of fact and law are involved therein.

(2) Shri Vishnu Ram Juri died in naxalite attack while serving as Constable at Karli, Tahsil Geedam, District Dantewada on 23.12.2007. Smt. Shyambati claiming to be the wife of deceased Vishnu Ram Jurri filed an application under Section 372 of the Succession Act, 1925 (henceforth "Act, 1925") and claimed succession certificate in her favour, in which she impleaded Smt. Anita Juri & Dev Kunwar Juri as party non -applicant. The said application was filed by Smt. Anita Juri & Dev Kunwar on 14.02.2008, and reply to this application was filed by Anita Juri & Dev Kunwar on 17.02.2010 but even thereafter the matter could not be decided finally and ultimately on 5.3.2018, Smt. Anita Jurri & Devkunwar filed counter claim stating that they are also entitled for succession certificate and also prayed for amendment in the reply, which was rejected by the trial Court , against which Writ Petition No. 484 of 2018 has been filed by the petitioners – Smt. Anita Jurri & Devkunwar Jurri questioning the same.

(3) The said Succession Court, by its order dated 14.05.2018, closed opportunity to lead evidence of Smt. Anita Jurri & another but thereafter recalled that order on

17.05.2018, against which writ petition (227) No. 506/2018 has been filed by petitioner – Smt. Shyambai questioning the same.

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

(5) The application for Succession has to be considered in accordance with the provisions contained in Section 372 of the Act, 1925 and the Succession Court has power to confine itself entirely to question of right to certificate and not to decide upon title, reality and character of claim; and proceedings under Section 372 of the Succession Act, 1925 is only a summary proceeding and any decision therein in regard to the entitlement to the property left by the deceased dying intestate and the grant of the certificate to a particular person or applicant is always subject to the decision of a civil court of competent jurisdiction in a regular court and, therefore, even if the claim made by Anita Jurri & Devkunwar is allowed to be pleaded, no prejudice would be caused to the original claimant and the Succession Court has to decide, who has right to certificate based on evidence available on record. Thus, the Succession Court has to decide the claim of the parties as to who is entitled to succession certificate and the Succession Court is directed to decide the entitlement of Shyambati or Anita Jurri & Devkunwar for grant of succession certificate in accordance with law.

(6) The Succession Court has already granter liberty by recalling its earlier dated 14.05.2018 by order dated 17.05.2018 to lead evidence to Smt. Anita Jurri & Devkunwar Jurri is in accordance with law.

(7) Thus, writ petitions are disposed of directing the Succession Court to decide the succession of the parties in accordance with law by 11th December, 2018 by giving them

opportunity to lead evidence.

(8) Copy of this order be sent to the Succession Court through concerned District Judge to do the needful.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

