

HIGH COURT OF CHHATTISGARH, BILASPUR

Civil Revision No. 78 of 2016

{Arising out of order dated 09.03.2016 passed in Succession Appeal No.03/2014 by the learned Additional District Judge, Link Court Dongargarh, District – Rajnandgaon}

- Smt. Shakuntala Wd/o Late Kunjilal Babhre, aged about 55 Years R/o Ambedkar Ward, Singaltoli, Godiya, Tahsil And District Gondiya Maharashtra

---- Applicant

Versus

1. Smt. Ganga Bai Wd/o Late Kunjlal Babhre, Aged About 55 Years R/o Kedarbadi, Dongargarh, Tahsil Donagargarh, District Rajnandgaon C.G.
2. Prashottam, S/o Late Kunjlal Babhre, Aged About 26 Years R/o Kedarbadi, Dongargarh, Tahsil Dongargarh, District Rajnandgaon Chhattisgarh
3. Preetpal, S/o Late Kunjlal Babhre, Aged About 24 Years R/o Kedarbadi, Dongargarh, Tahsil Dongargarh, District Rajnandgaon Chhattisgarh
4. Mamta, D/o Late Kunjlal Babhre, Aged About 22 Years R/o Kedarbadi, Dongargarh, Tahsil Dongargarh, District Rajnandgaon Chhattisgarh
5. State of Chhattisgarh Through Collector, Joint District Office, Rajnandgaon, District Chhattisgarh
6. Executive Engineer Communication / Maintenance Division, Chhattisgarh Electricity Board, Dongargarh, Tahsil Dongargarh, District Rajnandgaon Chhattisgarh

---- Respondents

For Applicant	:	Shri Shikhar Bakhtiyar, Advocate
For Non-Applicant No.6	:	Shri K.R. Nair, Advocate

Hon'ble Shri Justice Thottathil B. Radhakrishnan, Chief Justice

Order on Board

28.06.2018

1. This revision petition arises from an application for issuance of succession certificate under Section 372 of the Indian Succession Act, 1925.
2. Kunjilal Babhre died on 05.03.2009. The first respondent claiming to be his widow and mother of Respondents No.2 to 4 applied for issuance of succession certificate alleging that those three children were born in the wedlock between her and Kunjilal Babhre. The revision petitioner Smt. Shakuntala contested that position and pleaded that she is the widow of Kunjilal Babhre, being lawfully

wedded to him, and that there was no marriage which could be recognized in law as between Kunjilal Babhre and the first plaintiff Smt. Ganga Bai. The trial Court held that revision petitioner Smt. Shakuntala is the widow of Kunjilal Babhre. Thus the claim of Smt. Ganga Bai stood repelled. But, on the basis of materials on record, including the undisputed position that the other three were the children of Kunjilal Babhre, it was held by the trial Court that they are entitled to share as the legitimate children of Kunjilal Babhre in terms of the provisions of the Hindu Succession Act, 1956. The lower appellate Court refused to interfere with that verdict at the instance of revision petitioner.

3. In the light of the materials on record, I do not find that the Court below has acted illegally or erroneously in the exercise of jurisdiction in taking the concurrent view that though revision petitioner – Smt. Shakuntala is his widow, Kunjilal Babhre also left behind three children who are Respondents No.2 to 4 herein. The issuance of succession certificate on such basis cannot be found to be erroneous in law or on facts. No ground for interference under Section 115 of the Code of Civil Procedure is made out. This revision petition, therefore, fails.
4. In the result, the revision petition is dismissed.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice