

CR No.1213 of 2014 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CR No.1213 of 2014 (O&M)

Date of decision:04.12.2018

Raj Rani and another

... Petitioners

Vs.

Santosh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sanjiv Gupta, Advocate
for the petitioners.

Mr. Puran Chand, Advocate
for respondents No.1 to 5.

AMIT RAWAL J. (Oral)

The present revision petition is directed against the concurrent findings of facts and law, whereby, an application for issuance of succession certificate on account of demise of Som Nath, was allowed.

The respondents-Santosh, Rajni and Neha claimed to be wife and daughters of Som Nath, sought the succession certificate. The petitioners, Raj Rani and Vikram alias Anil moved an application under Order 1 Rule 10 CPC for impleadment as respondents. The said application was allowed. The trial Court granted the succession certificate in favour of the private respondents and appeal laid before the Lower Appellate Court was dismissed.

Mr. Sanjiv Gupta, learned counsel appearing on behalf of the petitioners submitted that petitioners had led the evidence in terms of the provisions of Section 50 of Indian Evidence Act to establish the relationship

with the deceased. The same has been ignored. In such circumstances, the Court below should not have proceeded with the proceedings under Section 372 of Indian Succession Act but ought to have relegated the party to avail the remedy before the Civil Court. In support of the aforementioned submission, relied upon the ratio decidendi culled out by this Court in **Darshana Kumari Vs. Satya Wati 2000(1) PLR 173.**

I am of the view that as the respondents, plaintiffs could not have proved the relationship with deceased which could have been done in the independent suit, vis-a-vis the evidence already led on behalf of the petitioners prima facie to establish that they were the children and widow of the deceased. It is yet to be determined as to whether Som Nath during the subsistence of first marriage, could perform second marriage and bore children or not.

In this view of the matter, I am of the view that petitioners are at liberty to seek the declaration in an independent civil suit and any observations granting the succession certificate would be subject matter of the outcome of the civil suit.

With the aforementioned modification in the impugned order, revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

December 04, 2018
savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No