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HIGH COURT OF CHHATTISGARH, BILASPUR**Civil Revision No.189 of 2016**

Juli Yadav W/o Shri Dhiraj Yadav, aged about 32 years, R/o Nariyalkothi, Dayalband, Bilaspur, Tahsil and District Bilaspur (CG)

---- Applicant**Versus**

1. Ravishankar Yadav S/o Late Mukunda Yadav, Mother Late Kamla Bai Yadav, R/o Imlibhata, Sarkanda, Bilaspur, Tahsil and District Bilaspur (CG)
2. Chief Medical and Health Officer, Bilaspur, District Bilaspur (CG)
3. All public who are concern.

---- Respondents

For Applicant	:	Ms Rajkumari Yadav appears on instructions of Mr.Subhash Yadav, Advocate
For Respondent No.1	:	Mr.Vivek Kumar Shrivastava, Advocate
For Respondent No.2	:	Ms K.Tripti Rao, P.L.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****06/03/2019**

1. This civil revision is directed against the order dated 17.10.2016 passed by the 1st Additional District Judge, Bilaspur in Misc. Civil Appeal No.44/2016, whereby the 1st Additional District Judge has affirmed the order of succession Court granting succession certificate in favour of respondent No.1 herein-Ravishankar Yadav.
2. Smt. Kamla Bai died in harness while working as mess servant at Community Health Center, Takhatpur. Respondent No.1-Ravishankar Yadav being son made an application for grant of succession certificate so far as dues of Kamla Bai is concerned. July Yadav-applicant herein, who is wife of other son Dhiraj Yadav, objected and

claimed succession certificate in her favour. The succession Court after appreciating oral and documentary evidence available on record allowed the application filed by Ravishankar Yadav and granted succession certificate in his favour as Ravishankar Yadav is son by deceased being heir under Section 15 (1) (a) of the Hindu Succession Act, 1956 (hereinafter called as “the Act of 1956”), against which, the applicant preferred appeal before the 1st Additional District Judge, Bilaspur. By the impugned order, the 1st Additional District Judge dismissed the appeal filed by the applicant and affirmed the order of the succession Court. Being aggrieved and dissatisfied with the said order, this civil revision has been preferred by the applicant.

3. Ms Rajkumari Yadav, learned counsel for the applicant, would submit that both the Courts below are absolutely unjustified in granting succession certificate in favour of respondent No.1.
4. On the other hand, Mr.Vivek Kumar Shrivastava, learned counsel for respondent No.1 would support the impugned order.
5. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
6. Sections 15 (1) and 16 of the Act of 1956 state as under:-

“15. General rules of succession in the case of female Hindus.-(1) the property of a female Hindu dying intestate shall devolve according to the rules set out in section 16,-

- (a) firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband;
- (b) secondly, upon the heirs of the husband;

- (c) thirdly, upon the mother and father;
- (d) fourthly, upon the heirs of the father, and
- (e) lastly, upon the heirs of the mother.

(2) Notwithstanding anything contained in sub-section (1),—

- (a) any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the father; and
- (b) any property inherited by a female Hindu from her husband or from her father-in-law shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the husband.

16. Order of succession and manner of distribution among heirs of a female Hindu.—The order of succession among the heirs referred to in section 15 shall be, and the distribution of the intestates property among those heirs shall take place according to the following rules, namely:—

Rule 1.—Among the heirs specified in sub-section (1) of section 15, those in one entry shall be preferred to those in any succeeding entry and those included in the same entry shall take simultaneously.

Rule 2.—If any son or daughter of the intestate had pre-deceased the intestate leaving his or her own children alive at the time of the intestate's death, the children of such son or daughter shall take between them the share which such son or daughter would have taken if living at the intestate's death.

Rule 3.—The devolution of the property of the intestate on the heirs referred to in clauses (b), (d) and (e) of sub-section (1) and in sub-section (2) to section 15 shall be in the same order and according to the same rules as would have applied if the property had been the father's or the mother's or the husband's as the case may be, and such person had died intestate in respect thereof immediately after the intestate's death."

A careful perusal of the aforesaid provisions would show that property of a female Hindu dying intestate shall devolve according to the rules set out in section 15, firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) read with Section 16 of the Act of 1956.

7. Smt. Kamla Bai had two sons namely, Ravishankar Yadav and Dilip Yadav, Dilip Yadav had already died on 1.4.2012 and he has one son namely Rahul Yadav and one daughter Khushi Yadav and they will also succeed the property of a female Hindu/Kamla Bai along with Ravishankar Yadav as Section 15 read with Section 16 of the Act of 1956 so far as pending dues of Kamla Bai is concerned. Accordingly, the impugned order is modified. Succession certificate with regard to retiral dues be issued in favour of respondent No.1-Ravishankar Yadav, he will get $\frac{1}{2}$ share and children of Dilip Yadav namely Rahul Yadav and Khushi Yadav will also get $\frac{1}{2}$ share in retiral dues of Kamla Bai. The succession Court is directed to issue fresh succession certificate in the above terms within 7 days from the date of receipt of certified copy of this order. Other part of order, if any, will remain intact.
8. The civil revision is disposed of with the above-stated direction. No cost(s). A copy of this order be sent to the concerned succession Court for compliance and needful.

Sd/-

(Sanjay K.Agrawal)
Judge