

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCivil Revision No.101 of 2015

Smt. Shivpati Devi, W/o Bandhu Sao (wrongly mentioned Bechu Sao), aged about 45 years, R/o Village Japla (Jharkhand), Present R/o Village Ramanujganj, Ward No. 08, P.S. & Tahsil Ramanujganj, District Balrampur-Ramanujganj (C.G.)

(Non-applicant)
---- Petitioner

Versus

1. Rajendra Prasad, S/o Late Bandhu Sao, aged about 38 years,
2. Smt. Prabhadevi, D/o Late Bandhu Sao, aged about 40 years,

Both are R/o Village Ramanujganj, Ward No. 08, P.S & Tahsil Ramanujganj, District Balrampur-Ramanujganj (C.G.)

(Applicants)
---- Respondents

For Petitioner:	Mr. Aditya Tiwari, Advocate, on behalf of Mr. Anand Shukla, Advocate.
For Respondents:	Mr. Anurag Dayal Shrivastava, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

05/04/2019

1. The dispute relates to the two FDRs left by Bandhu Sao who died on 6-12-2009. Two applicants Rajendra Prasad and Smt. Prabha Devi claiming to be son and daughter of Late Bandhu Sao, respectively, filed an application under Section 372 of the Indian Succession Act, 1925 for grant of succession certificate in respect of the said deposit in shape of FDRs in which the present petitioner filed her statement objecting the grant of succession certificate stating inter alia that she is the duly wedded second wife of Bandhu Sao, therefore, the applicants are not entitled for grant of

succession certificate and she is entitled for succession certificate. The succession Court rejected the application holding that the applicants have failed to establish their relationship with Bandhu Sao as son and daughter and rather the non-applicant has succeeded in establishing the fact that she is the legally wedded wife of Bandhu Sao. On appeal being preferred by the claimants / Rajendra Prasad and Smt. Prabha Devi, the appellate Court reversed the finding and granted succession certificate in their favour which has been assailed in this revision.

2. Mr. Aditya Tiwari, learned counsel appearing for the petitioner / non-applicant, submits that the first appellate Court is absolutely unjustified in holding that the applicants, who are the respondents herein, are entitled for grant of succession certificate, as they have not established that their mother Jangli Devi was the legally wedded wife of Bandhu Sao to whom the FDRs belonged. As such, the order of the appellate Court deserves to be set aside.
3. Mr. Anurag Dayal Shrivastava, learned counsel appearing for the respondents / applicants, submits that the present petitioner / objector has already admitted in her statement before the Court, the fact that Jangli Devi was the first wife of Bandhu Sao and the applicants are son and daughter of said Bandhu Sao out of their wedlock, therefore, the appellate Court is justified in granting succession certificate in their favour.
4. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the records with utmost circumspection.

5. The applicant / Smt. Shivpati Devi was examined before the succession Court as non-applicant witness No.1 (NAW-1). In her statement before the Court, in paragraph 10, she has clearly admitted that the marriage of Bandhu Sao was held as per the prevalent custom with Jangli Devi – mother of Rajendra Prasad and Prabha Devi. Not only this, further, in document Ex.A-7 which is the objection raised by applicant Shivpati Devi before the Nazul Officer, in reply, she has clearly admitted that Jangli Devi was the wife of Bandhu Sao and Rajendra Prasad – applicant No.1 is the son of Bandhu Sao and Jangli Devi, and further stated that Jangli Devi left her husband Bandhu Sao 3 months after the birth of Rajendra Prasad and thereafter, Bandhu Sao married the present applicant as per the Hindu custom prevalent.
6. The aforesaid averment clearly states that Jangli Devi – mother of applicants Rajendra Prasad and Prabha Devi, was married to Bandhu Sao, and Rajendra Prasad and Prabha Devi both are son and daughter of Bandhu Sao, respectively, ought his wedlock with Jangli Devi. There can be no better evidence than the admission made by the non-applicant herself, as the matter is hotly contested, despite that she has clearly admitted the relationship of Jangli Devi and Bandhu Sahu with the applicants and she has claimed herself to be the second wife of Bandhu Sahu. Merely because Jangli Devi left Bandhu Sao, it cannot be assumed that she has divorced her husband and her son and daughter would not be entitled to inherit the property of Bandhu Sao. The appellate Court has minutely and closely scanned the evidence available on record and came to the

right conclusion that Jangli Devi was legally wedded wife of Bandhu Sao, and Rajendra Prasad and Prabha Devi are son and daughter out of the wedlock of Bandhu Sao with Jangli Devi and therefore they are entitled for succession certificate in which I do not find any perversity or illegality. The revision deserves to be and is accordingly dismissed. However, the petitioner is entitled to question the finding of the succession Court in accordance with Section 387 of the Indian Succession Act 1925. Parties shall bear their own cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge