

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.6166 of 2018

Date of Decision: 16.07.2019

Seema

...Petitioner

versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Ram Bilas Gupta, Advocate,
for the petitioner.

Mr. R.K.S. Brar, Addl. A.G., Haryana.

Mr. Ankur Mittal, Advocate,
for respondent no.3.

Mr. Johan Kumar, Advocate,
for respondents no.7 to 11.

Amol Rattan Singh, J.

By this petition, the petitioner challenges the order of the learned Additional District Judge, Faridabad, dated 07.08.2018, dismissing her application seeking to be impleaded as a legal representative of Ganga Ram son of Chunni, her contention being that she is his wife/widow.

The Additional District Judge was seized of a reference made to that court under Sections 18 and 30 of the Land Acquisition Act, 1894, with Ganga Ram being one of the persons (as a legal representative of his father, Chunni), seeking enhancement of compensation in lieu of land acquired from him (Chunni).

2. The contention of the petitioner in her application (copy Annexure P-11), was that she was married to Ganga Ram and out of that

wedlock two children, namely Gulabo and Yogesh, were born, both of whom unfortunately died.

Prior to that, she is stated to have been married to one Roop Chand, whose children were also adopted by Ganga Ram (as contended by her).

She further contended in her application that she was the only legal heir of Ganga Ram, being his legally wedded wife.

3. It was further disclosed in the application that prior thereto another application for bringing on record her two children (Deva Nand and Meena), as the legal representatives of Ganga Ram was filed, which was dismissed by the learned reference Court, with Civil Revision no.3257/2017 having been filed against that order before this court, that petition having been withdrawn on 12.07.2017, with liberty granted to file an application qua the present petitioner (Seema alone) before the reference Court.

Consequently, the application that has now been dismissed, was filed.

4. The application was opposed by five persons, i.e. respondents no.7 to 11 herein, (as stated in the present petition though not clearly discernible from the reply filed by the respondents, dated 10.08.2017, a copy of which is Annexure P-13 with this petition), all of whom are also stated to be petitioners seeking enhancement of compensation.

5. The learned reference Court, upon considering the matter, first recorded a finding that its predecessor court had, vide an order dated 23.03.2017, specifically recorded that Ganga Ram had died unmarried and issueless, that court having further found that the petitioner had fabricated and prepared false birth certificates as regards her children Deva Nand and Meena.

The impugned order further goes on to state that the petitioner (applicant before that court) had not pleaded in her application as to on which date she had married Ganga Ram and on which date the two (unfortunately deceased) children, Gulabo and Yogesh, were born.

It was also held that simply because one person (Jagdish son of Ram Gopal) had executed a power of attorney in favour of the petitioner applicant, showing her to be the wife of Ganga Ram, that was no evidence to prove that she actually was Ganga Rams' wife.

Further, it was held that only because this court had granted her permission to file an application seeking to be impleaded as the legal representative of Ganga Ram, did not mean that the application was to be allowed.

6. On the aforesaid reasoning, the application was dismissed, leading to the present petition being filed.

7. At the time when notice of motion was issued in this petition on September 14, 2018, the following contentions of Mr. Ram Bilas Gupta, learned counsel for the petitioner, had been recorded:-

“Learned counsel for the petitioner submits that as a matter of fact the petitioner was the legally wedded wife of Ganga Ram as is depicted even in her ration card that she wishes to lead in evidence, a copy of which is annexed as Annexure P-12. Other than that he refers to the copies of the Aadhar Cards annexed with the petition, of the aforesaid Devanand and Meena, wherein Devanand has been shown to be the son of the late Ganga Ram and Meena was shown to be the wife of one Sham.

Similarly, the identity card issued by the Election Commission of India, also shows Devanand to be the son of Ganga Ram. The same is the position as regards the PAN card of Devanand, with the PAN card of Meena showing her to be the

daughter of Ganga Ram.

He further points to the copy of the general power of attorney executed by one Jagdish son of Ram Gopal in favour of the petitioner, showing her to be the wife of Ganga Ram resident of 29/396, Trilok Puri Delhi-91. The said document is seen to be dated December 27, 1993”.

In this context it is to be noticed again that the Reference Court also found that as regards the aforesaid Meena and Devanand, its predecessor court had rejected the claim of the petitioner as to their being the children of Ganga Ram.

In the impugned order (presently) that court had thereafter declined to allow the application on the ground that no cogent evidence had been led by the petitioner to prove herself to be the wife of Ganga Ram.

In view of the above, this court had also therefore recorded in its order dated September 14, 2018, as follows:-

“As regards the contention that Devanand and Meena are also shown to be the children of Ganga Ram in the documents submitted by them (referred above), I see no reason to travel in that direction in view of the fact that it is the admitted case of the petitioner herself, as recorded even before the learned Reference Court and not denied by learned counsel on specific query put even by this Court, that they were the children of her husband, Roop Chand, whom she stated she had been married to prior to her marriage to Ganga Ram (Roop Chand have died before that).

Again on specific inquiry, learned counsel for the petitioner submits that there is no adoption deed showing Devanand and Meena to have been adopted by Ganga Ram.

As regards the petitioners' independent evidence, it is not denied firstly that Ganga Ram died in 1994 as per the learned counsel's contention. Consequently, simply because she projected herself to be the wife of Ganga Ram in the application that she made for a ration card in 2008, in the opinion of this Court also, that would not establish her marriage to Ganga Ram.

As regards the power of attorney executed in her favour by

one Jagdish, though it is seen to be of the year 1993, wherein the petitioner is shown to be the wife of Ganga Ram, Ganga Ram neither being witness to such document nor there being any 'endorsement' from him on the said document, I don't see, how even that document would prove the relationship of the petitioner with the late Ganga Ram.

After the above part of the order was recorded, learned counsel now points to the birth certificate (Annexure P-12), of a daughter shown to be born to the petitioner and Ganga Ram, named Gulabo, with her date of birth shown to be 13.03.1991.”

Consequently, while issuing notice of motion in the petition, an interim order had been passed, directing that proceedings before the reference Court, qua compensation to be awarded in respect of the land belonging to Ganga Ram, would remain stayed during the pendency of this petition.

In response to the notice issued, Mr. R.K.S. Brar, Additional Advocate General, Haryana appeared for the State and the Land Acquisition Collector (respondents no.1 and 2); Mr. Ankur Mittal, Advocate, had put in appearance for the Haryana State Industrial and Infrastructure Development Corporation (respondent no.3) and Mr. Johan Kumar, Advocate, had put in appearance for respondents no.7 to 11.

As per the report of the Registry, respondent no.5 is stated to have died “issueless”, and as regards respondent no.6 (i), i.e. Gyasi son of late Chunni (brother of the late Ganga Ram), his address being incomplete, he could not be served of such notice.

Further, though other members of the *Shamlat Patti* (respondent no.4) are shown to be served, however as regards one of such members of the *Patti*, i.e. Birwati ((respondent no.4 (iii))), notice issued to her had still not been received back, served or otherwise.

Be that as it may, though even Gyasi would be a necessary party to be otherwise heard, however, in view of the order which is being passed immediately hereinafter, it is not considered necessary for the unserved respondents to be actually heard, as they would have complete opportunity to be heard before the reference court in terms of this order.

Having considered the matter, it is to be noticed that it is very obvious that this court while allowing the petitioner to withdraw Civil Revision no.3257 of 2017 on 12.07.2017, had granted liberty to her to move an appropriate application seeking that she alone be treated to be the legal heir of the late Ganga Ram, it having been already proved that her children from her previous marriage were not proved to have been legally adopted by Ganga Ram and in fact she was found to have forged certificates showing them to be the children of Ganga Ram.

Actually in view of her past conduct, she does not deserve any concession at all; however, with learned counsel having produced a copy of a birth certificate in respect of a child named Gulabo, shown to be issued by the Sub-Registrar, Trilok Puri, Municipal Corporation of Delhi, on 09.04.1991, with the date of birth of the said female child shown to be 13.03.1991, it is considered appropriate that the petitioner be allowed to prove the said certificate before the learned reference court, as the names of the mother and father of the child are shown to be Seema/Ganga Ram in that certificate.

Naturally, the contesting respondents would have also complete opportunity to contest the validity of the said certificate by leading whatever evidence they wish to in that regard.

If the said certificate is found to be proved as a genuine certificate showing the birth of Gulabo to the petitioner and Ganga Ram on

13.03.1991, the learned reference court would then examine the effect thereof as to the validity of the marriage of the petitioner to Ganga Ram, if any such validity can be presumed in the light of the legitimacy of a child to be determined in terms of Section 16 of the Hindu Marriage Act, 1955.

Naturally, if the petitioner wishes to lead any other evidence on the birth of the other child that she contends to born to her and Ganga Ram, who also is stated to have unfortunately died, i.e. Yogesh, she would be at liberty to do so, with again the respondents at liberty to refute any evidence as is sought to be led by the petitioner in that regard.

The reference court would also naturally be within its jurisdiction to call for any other record with regard to the birth and death of the aforesaid children to determine the legitimacy of the children as regards their parentage; and the effect of such legitimacy (if found to be so), on the status of the petitioner as the widow, or otherwise, of the late Ganga Ram.

Thus, in view of what has been held and directed hereinabove, the petition is allowed to the aforesaid extent, with the impugned order set aside and the reference court to now proceed as directed hereinabove, qua the issue of whether or not the petitioner deserves to be impleaded in the proceedings before that court as a legal heir of Ganga Ram, or not.

July 16, 2019
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(AMOL RATTAN SINGH)
JUDGE

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| 1. Whether speaking/reasoned? | Yes |
| 2. Whether reportable? | Yes |