

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CIVIL REVISION No. 107 of 2018

Reserved on 10.02.2021

Pronounced on 12.02.2021

1. Smt. Anju Lata Pandey Wd/o Late R K Pandey Aged About 48 Years
R/o Village Shikshak Nagar, Ambedkar Ward, Mungeli, Tahsil
Mungeli, District Mungeli, Chhattisgarh.
2. Ayush Pandey S/o Late R K Pandey Aged About 14 Years Through
Natural Guardian Mother Namely Anju Lata Pandey Wd/o Late
Rajkumar Pandey, R/o Village Shikshak Nagar, Ambedkar Ward,
Mungeli, Tahsil Mungeli, District Mungeli, Chhattisgarh.

---- Applicants**Versus**

1. Maheshwari Pradhan D/o Dashrath Pradhan Aged About 53 Years
R/o Village Badra B, Tahsil Pathariya, District Mungeli, Chhattisgarh.
2. General Public Which Related To The Succession Certificate Of Late
Rajkumar Pandey R/o Village Badra B, Tahsil Pathariya, District
Mungeli, Chhattisgarh.
3. Avishekh Kumar Pandey @ Rakesh Pandey S/o Rajkumar Pandey
Aged About 26 Years R/o Village Badra B, Tahsil Pathariya, District
Mungeli, Chhattisgarh.
4. Santoshi @ Tulsi Pandey D/o Late Shri Rajkumar Pandey R/o Village
Badra B, Tahsil Pathariya, District Mungeli, Chhattisgarh., District :
Mungeli, Chhattisgarh.

---- Non-applicants

For applicants	: Mr. Awadh Tripathi, Adv.
For non-applicants	: Not noticed.

Hon'ble Mr. Sharad Kumar Gupta, Judge
C.A.V. ORDER

1. Applicants have preferred instant Civil Revision against the order dated 20.08.2018 passed by District Judge, Mungeli District Mungeli in Misc. Civil Appeal No. 11/2017 whereby and whereunder he dismissed said appeal and affirmed the order of 1st Civil Judge Class I, Mungeli dated 18.09.2017 passed in Civil Suit No. S-4/2014.

2. This is admitted by non-applicants No. 1, 3 and 4 that Late Rajkumar Pandey was constable number 44 at Mungeli. He died on 20.03.2014 at Mungeli. Rs. 5,54,258/- payable to him is pending with police department, Mungeli.

3. In brief the applicants' case is that applicant No. 1 is legally wedded wife of Late Rajkumar Pandey. The marriage was solemnized in the year 1992, out of their wedlock applicant No. 2 born. Succession certificate would be given to them.

4. In brief the case of non-applicants No. 1, 3 and 4 is that except the admitted facts other facts are denied by them. Non-applicant No. 1 is legally wedded wife of Late Rajkumar Pandey. Their marriage was solemnized 27-28 years ago from 11.5.2015, out of their wedlock non-applicants No. 3 and 4 born. Their counter claim be allowed and succession certificate be given to them.

5. By the order dated 18.09.2017, the trial Court ordered that succession certificate be issued in favour of non-applicants No. 1, 3, 4 and applicant No. 2 regarding amount of Rs. 5,54,258/-, the relief of succession certificate regarding compassionate appointment is rejected.

6. Being aggrieved, applicants preferred aforesaid Misc. Civil Appeal. By order dated 20.08.2018 District Judge, Mungeli dismissed the appeal and affirmed the order of the trial court.

7. In brief, the applicants' case regarding this revision is that the appellate court arbitrarily held that non-applicant No. 1 is legally wedded wife of Late Rajkumar Pandey though there is ample material available on record which indicates that applicant No. 1 is legally wedded wife of Late Rajkumar Pandey, non-applicant No. 1 failed to prove that allegedly her marriage was solemnized with Late Raj Kumar Pandey in accordance to the provision of Section 7 of the Hindu Marriage Act.

8. Section 115 of the CPC is also relevant which reads as under :-

“115. Revision [(1)] The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate court appears—

(a) to have exercised a jurisdiction not vested in it by law, or

(b) to have failed to exercise a jurisdiction so vested, or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court may make such order in the case as it thinks fit.

9. N.A.W.- 2 Smt. Ranjna Shukla says in para Nos. 1, 2 and 3 of her statement given on oath that she is sub inspector, Late Raj Kumar Pandey was working in her department, 27-28 years ago from date of her statement i.e. 04.02.2017 the marriage of non-applicant No. 1 was solemnized with Late Raj Kumar Pandey in accordance with Hindu rites and rituals in her presence, out of their wedlock non-applicant No. 3 and 4 born, the name of non-applicants No. 1, 3 and 4 is recorded as nominee of Late Raj Kumar Pandey in his service record.

10. In certified copy of Adhaar card Ex. D3(c) the name of non-applicant No. 3 is mentioned and as relative the name of Late Raj Kumar Pandey is mentioned.

11. In certified copy of birth certificate Ex. D4(c) it is mentioned that non-applicant No. 3 was born on 25.11.1991 and as his father name of Late Rakesh Pandey is mentioned. It would be significant to mention that as per Ex. D-4(C), non-applicant No. 3 born before the marriage of applicant No. 1 and late Rajkumar Pandey i.e. 1992.

12. In the certified copy of Adhaar card Ex. D5(c) the name of non-applicant No. 4 is mentioned and as relative the name of Late Raj Kumar Pandey is mentioned.

13. In the certified copy of the mark-sheet of High School Certificate Examination Ex.D8(c) the name of non-applicant No.3 is mentioned and name of Late Raj Kumar Pandey is mentioned as his father.

14. In the certified copy of the mark-sheet of Higher Secondary School Certificate Examination Ex.D9(c) the name of non-applicant No.4 is mentioned and name of Late Rajkumar Pandey is mentioned as her father.

15. On suggestion given by counsel for the non-applicant No. 1, 3 and 4, A.W. 1 Smt. Anjulata Pandey says in para 8 that this is true that in the information received under RTI by her name of non-applicant No. 1 as wife,

name of Non- applicant No. 3 as son and name of non-applicant No. 4 as daughter are recorded in the service record of late Rajkumar Pandey.

16. Under the Indian Succession Act, an inquiry summery in nature is required to be done and detail inquiry is not required. Hence, in the case in hand, detailed inquiry regarding provision of Section 7 of the Hindu Marriage Act cannot be done. Civil Court is competent to hold such detailed inquiry.

17. Looking to the above mentioned facts and circumstances, this Court finds that appellate Court had not committed any illegality or material irregularity while exercising its jurisdiction believing aforesaid statement of NAW No. 2 Smt. Ranjna Shukla, Ex. D-3(c), Ex. D-4(c), Ex. D-5(c), Ex. D-8(c) and Ex. D-9(c) and giving the findings that non-applicant No. 1 is legally wedded wife of late Rajkumar Pandey, earlier there marriage was solemnized and thereafter marriage of applicant No. 1 was solemnized with late Rajkumar Pandey, applicant No. 2, non-applicant No. 3 and non-applicant No. 4 are children of late Rajkumar Pandey, applicant No. 2, non-applicant No. 1, non-applicant 3 and 4 are entitled to get the succession certificate regarding the deposit amount Rs. 5,54,258/-.

18. Looking to the above mentioned facts and circumstances of the case, this Court finds that instant revision is not fit for admission. Consequently, instant revision is not admitted for final hearing and dismissed at motion hearing stage.

19. In view of above, I.A. No. 1 is also dismissed.

Sd/-
(Sharad Kumar Gupta)
Judge