

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 16132 of 2015

Sunil Majhi

....

Petitioner

Mr. S.K. Mishra, Advocate

-versus-

***Mahanadi Coal Field Ltd. &
Another***

....

Opposite Parties

Mr. A.K. Mishra, Advocate

CORAM: JUSTICE V. NARASINGH

**ORDER
15.09.2022**

Order No.

08.

1. This matter is taken up through hybrid mode.
2. Heard Mr. S.K. Mishra, learned counsel for the petitioner and Mr. A.K. Mishra, learned counsel for the Opposite Party- Mahanadi Coal Fields Ltd.(M.C.L).
3. One Susama Majhi was on the rolls of Mahanadi Coal Fields Ltd. as Category-1 Majdoor in N.S. Central Hospital, Talcher.
4. A representation was made by the said Susama Majhi to reflect the name of the present petitioner, claiming him to be her adopted son as LR in the service book maintained by the M.C.L.
5. Such representation was rejected by order dated 24.03.2015 at Annexure-4 by the Area Personnel Manager, N.S. Hospital, Talcher, which is the subject matter of challenge in the present Writ Petition.
6. It is apt to note here that during the pendency of the Writ Petition the said Susama Majhi passed away and the petitioner was

substituted as per order dated 10.08.2022 passed in I.A No.1071 of 2022.

7. Learned counsel for the petitioner, Mr. S.K. Mishra submits on a bare perusal of the rejection order at Annexure-4. It can be seen that the prayer to treat the petitioner as LR of said Susama Majhi was rejected by the M.C.L. authorities inter alia relying on the provision contained under Section 9(3) of Hindu Adoption and Maintenance Act, 1956.

8. It is apposite to note that during the pendency of the Writ Petition before this Court and after rejection order of the M.C.L. authorities dated 24.03.2015, which is impugned herein, by order dated 28.03.2022 in Civil Suit No.246 of 2021, the learned Senior Civil Judge, Talcher, Angul, has declared the present petitioner who was the plaintiff therein, as adopted son of late Susama Majhi and Balaram Majhi and the judgment passed by the learned Civil Court is on record by way of affidavit filed on behalf of the applicant on 11.07.2022.

9. Basing on such affidavit, it is submitted by learned counsel for the petitioner, Mr. S.K. Mishra that since the order passed by the Competent Civil Court relating to an adoption is a Judgment in rem the Opposite Party- Mahanadi Coal Fields Ltd. ought to act upon the same.

10. Learned counsel for the M.C.L., Mr. A.N. Mishra, referring to the counter affidavit and the order of rejection at Annexure-4 submits that in the given facts, the stand taken by the M.C.L. authorities cannot be faulted.

11. Be that as it may, since the Competent Court having jurisdiction has declared the status of the present petitioner as the adopted son of late Susama Majhi, this Court is of the considered

opinion that since rejection of the claim of late Susama Majhi was on account of purported legal complication as stated in such order of rejection, no longer ought not to stand in the way of the M.C.L. authorities to consider the claim of the petitioner as the son of late Susama Majhi, the erstwhile employee of the M.C.L. Hence, it is so directed.

12. Taking into account that the matter is pending in this Court since 2015, the M.C.L. authorities shall do well to consider the representation of the petitioner submitted along with a copy of judgment passed by the Civil Court herein adverted to within a period of four weeks to treat the petitioner as the son of late Susama Majhi, and it goes without saying that all the consequential service benefits which were due and admissible to late Susama Majhi be extended to the petitioner if his claim is considered favourably.

13. The exercise of consideration shall be made within a period of four months from the date of receipt/production of the copy of this order along with the representation and the judgment of the Competent Civil Court adverted to hereinabove.

14. As prayed for by learned counsel for the petitioner since the Photostat copy of the judgment dated 28.02.2022 passed in Civil Suit No.246 of 2021 is on record, liberty is granted to take back the certified copy of the same.

15. With such Direction, the Writ Petition stands disposed of.

(V. NARASINGH)
Judge

Ayesha