

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.14364 of 2022
(Through Hybrid mode)

***Gopinath Sahu @ Gopi Sahu and
another***

....

Petitioners

Mr. B. N. Mohapatra, Advocate

-versus-

State of Odisha and others

....

Opposite Parties

Mr. A. K. Nanda, AGA

CORAM: JUSTICE ARINDAM SINHA

ORDER
02.11.2022

Order No.

- 02.
1. Mr. Mohapatra, learned advocate appears on behalf of petitioners. He submits, they are father and widow of the deceased. Death was by motor accident.
 2. He submits, death was on 21st July, 2021. His clients applied for legal heir certificate on 21st October, 2021. Petitioners came to learn that by order dated 3rd December, 2021, the application was rejected saying it is found that the exact legal heirs of the deceased was not ascertained during local enquiry of the RI.
 3. The petition was moved on 26th October, 2022. Paragraphs 1 and 2 from order made that day are extracted and reproduced below.

“1. Mr. Mohapatra, learned advocate appears on behalf of petitioners, who are father and widow of the deceased. He submits, by impugned order the Tahasildar rejected application of his clients for legal heir certificate. Details of the legal heirs are given in impugned order itself (annexure-3 page 9).

2. Mr. Nanda, learned advocate, Additional Government Advocate appears on behalf of State and prays for adjournment to obtain instructions and make submissions.”

4. Mr. Nanda submits, further enquiry has been made. Petitioner no.1 - father was found to be living alone. The inquiry could not reveal any document regarding marriage of the deceased to petitioner no.2, nor her whereabouts.

5. Rule 5 in Odisha Miscellaneous Certificates Rules, 2017 provides for institution of case and inquiry, inter alia, for issuance of legal heir certificate. Sub rules (1) and (2) are extracted and reproduced below.

“5. Institution of the case and inquiry:- (1) *The revenue Officer shall initiate a case record, scrutinize the documents furnished by the applicant, verify the relevant records, if any, in the office and wherever necessary, may himself inquire into the matter or call for a report of inquiry by a specified date from an officer subordinate in rank.*

(2) Before issue of legal heir certificate, the Revenue Officer shall issue a proclamation in Form VI inviting objections from the public regarding list of the legal heirs of the deceased within fifteen days. ”

6. It appears the authority has proof that petitioner no.1 is legal heir. Regarding petitioner no.2 there appears to be doubt.

7. At this stage, Mr. Nanda points out that rule 9 provides for appeal. Court however finds, opposite party no.1 by issuing impugned rejection, did so with material irregularity in not issuing the certificate in favour of opposite party no.1. As such, judicial interference is warranted.

8. Impugned order is set aside and quashed.

9. Opposite party no.1 is directed to forthwith duly issue legal heir certificate in favour of petitioner no.1. This will not prevent said opposite party from considering subsequent application, if made by petitioner no.2, for addition of her name in the certificate.

10. The writ petition is disposed of.

(Arindam Sinha)
Judge