

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No.36193 Of 2021
(Through hybrid mode)**

Mamata Samal and another* *Petitioners

Mr. A.K. Nayak, Advocate

-versus-

Union of India and others* *Opposite Parties

Mr. A.K. Sharma, AGA
Mr. P.K. Parhi, Advocate

CORAM: JUSTICE ARINDAM SINHA

**Order
No.**

**ORDER
14.02.2022**

2. 1. Petitioners' case is that their son met with railway accident and died. Opposite party no.4 is brother to petitioner no.2. Said opposite party wrongly claimed the deceased was his son.
2. Mr. Nayak, learned advocate appears on behalf of petitioners and submits, there be direction upon the Railway Claims Tribunal to adjudicate regarding compensation payable in favour of his clients. Claim of opposite party no.4 cannot survive since said opposite party by affidavit dated 22nd January, 2014 had clearly said that the deceased is the natural son of petitioners. There be further direction that petitioners are not required to obtain succession certificate from civil Court.

3. Mr. Sharma, learned advocate, Additional Government Advocate appears on behalf of State and submits, the Sub-Collector duly made order dated 24th April, 2018 directing, inter alia, petitioners to approach civil Court for issuance of succession certificate.

4. Petitioners have relied on affidavit dated 22nd January, 2014 of opposite party no.4. Inter alia following was said in paragraph-2 of the affidavit.

“2. That I have already executed an Undertaking/Agreement dtd.20.2.2013 saying that decease Sankar Samal is not my son and he is the natural son of Mamata Samal and Madhaba Samal. Madhaba Samal is my own brother whose son Sankar Samal was treated as my godly son till his death. We both the brothers treat Sankar as of our son though I happen to be the paternal uncle of Sankar.”

5. The writ Court will not adjudicate disputes on question of fact. The affidavit can be relied upon by petitioners before competent civil Court to obtain succession certificate in accordance with law.

6. With above observation, the writ petition is disposed of.

(Arindam Sinha)
Judge