

HIGH COURT OF CHHATTISGARH, BILASPURCivil Revision No.67 of 2016

Smt. Uma Dey, aged about 68 years, wife of late Shri L.M. Dey, R/o. Near Durga Mandir, Silpahari Road Dhuma, Tahsil and District Bilaspur (CG)

--- Applicant

Versus

1. Union of India, Through Divisional Railway Manager, South East Central Railway Office, Tahsil and District Bilaspur (CG)
2. Union of India through Senior Divisional Personnel Officer, South East Central Railway Office, Tahsil and District Bilaspur (CG)
3. Smt. Geeta Vishwas, aged about 33 years, R/o. Imlidugu, Korba, Tahsil and District Korba (CG)
4. General Public

--- Non-applicants

For Applicants	:	Mr.Mayank Chandrakar and Mr.Akash Pandey, Advocates
For Non-applicants No.1&2	:	Mr.B.S.Rajput, Advocate appears on behalf of Mr.Raj Kumar Gupta, Advocate
For Non-applicant No.3	:	Mr.Dinesh Tiwari, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order on Board

30/04/2019

1. Shri Tapan Dey while working with the South East Central Railway died in harness on 12.6.2009. His mother/applicant herein filed an application under Section 372 of the Indian Succession Act, 1925 (hereinafter called as "the Act of 1925") for grant of succession certificate in her favour for the amount due and deposited in the name of his son Tapan Dey, in which non-applicant No.3 herein claimed that she is legally wedded wife and her four children are entitled for grant of succession certificate. The succession Court granted the application holding that his mother/applicant herein, non-applicant No.3 and four children are Class I heirs under the provisions of the Hindu Succession Act, 1956 and granted granted

succession certificate and 1/6th share in favour of all six persons. On appeal being preferred by the applicant herein, the appellate Court interfered with and held that the applicant, non-applicant No.3, one son Devishish Dey and one daughter Tripti Dey are entitled for 1/4th share each and Sagar Dey & Aman Dey are not entitled for any share in the property/amount left by Tapan Dey, against which, this civil revision has been preferred by the applicant herein.

2. Mr.Akash Pandey, learned counsel for the applicant, would submit that finding recorded by two Courts below that non-applicant No.3 is legally weeded wife of Tapan Dey is perverse and contrary to record, as such, non-applicant No.3 is not entitled for any share in the property/amount left by Tapan Dey.
3. Mr.Dinesh Tiwari, learned counsel for non-applicant No.3, would support the impugned order.
4. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
5. Two Courts below on appreciation of evidence available on record held that non-applicant No.3 is widow and legally weeded wife of Tapan Dey relying upon oral and documentary evidence available on record. It has also been brought on record that upon death of Tapan Dey, non-applicant No.3 has been granted privilege of compassionate compassionate, she is also getting family pension and in various government record, name of Tapan Dey has been recorded as father of Devashish Dey and Tripti Dey and he has also been named as husband of non-applicant No.3. On the basis of said

record available and finding recorded in this regard, it cannot be held that both the Courts below have committed illegality in holding that non-applicant No.3 is legally wedded wife of deceased Tapan Dey. Both the Courts below have rightly held that non-applicant No.3 is legally wedded wife of deceased Tapan Dey. I do not find any illegality or perversity in the said finding.

6. Accordingly, the civil revision deserves to be and is hereby dismissed leaving the parties to bear their own cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-