

Keerat Prasad Vs. Narayan Prasad and ors

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Court : Madhya Pradesh

Decided On : Nov-19-2012

Appellant : Keerat Prasad

Respondent : Narayan Prasad and ors

Advocate for Def. : Shri. Himanshu Shrivastava

Advocate for Pet/Ap. : Shri. Aseem Dixit

Judgement :

1 M.A. 1256/2003 HIGH COURT OF MADHYA PRADESH JABALPUR SINGLE BENCH: HON'BLE SHRI JUSTICE A.K. SHRIVASTAVA M.A. No.1256/2003Appellant: Keerat Prasad, S/o Ayodhya Prasad Chadhar, Occupation-Service Pay Account Office, Defence M.R.C., Sagar, Resident of Quarter No.25, Lekha Nagar, Near Rathore Mandir, Sadar Bazar, Sagar, M.P. VersusRespondents:

1. Narayan Prasad, S/o Ayodhya Prasad Chadhar, Government Servant, Commercial Tax Department, R/O 478, Krishnaganj Ward, Sagar, M.P.

2. Govind Prasad Athiya, S/o Ayodhya Prasad Chadhar, Service, District Co-operative Central Bank, R/o 478, Krishnaganj Ward, Sagar, M.P. 3 Deputy General Manager & Head of Department, Security Paper Mill, Hoshangabad, M.P.

----- Appellant by -
Shri Aseem Dixit, Advocate Respondents no.1 & 2 by- Shri S.K. Chaturvedi,

ORDER

(19/11/2012) Feeling aggrieved by the order dated 16.4.2003 passed by First Additional District Judge, Sagar in 2 M.A. 1256/2003 Succession Case No.7/01, this appeal has been filed by the appellant under Section 384 of the Indian Succession Act, 1925.

2. No exhaustive statements of fact are required to be narrated for the purpose of disposal of this appeal. Suffice it to say that Narayan Prasad and Govind Prasad are the sons of Ayodhya Prasad who have been arrayed as first and second respondents in this appeal, filed an application under Section 372 of the Indian Succession Act for the grant of succession certificate. From the application filed in the Court below, it is gathered that these respondents are the sons of Ayodhya Prasad who was serving under the employment of respondent no.3. Since Ayodhya Prasad had died on 1.11.1998, an application for grant of succession certificate has been filed by them on the ground that they are the nominee mentioned in the declaration form of their father.

3. This application was resisted by the appellant. The learned Trial Court by the impugned order has directed to grant succession certificate only to respondents 1 and 2. In this manner, this appeal has been filed by the appellant.

4. The contention of Shri Aseem Dixit, learned counsel for the appellant is that appellant is also the son of late Ayodhya Prasad and, therefore, first and second respondents are his real brothers and since the amount of their deceased father is lying in the Department of respondent no.3, therefore, he is also entitled for the succession certificate. Learned counsel has placed reliance on the decision of the Supreme Court Shipra Sengupta Vs. Mridul Sengupta and others (2009) 10 SCC 680.

5. On the other hand Shri S.K. Chaturvedi, learned counsel appearing for respondents no.1 and 2 argued in 3 M.A. 1256/2003 support of the impugned order. Shri Himanshu Shrivastava, learned counsel for respondent no.3 submits

that the amount of deceased employee will be disbursed according to the succession certificate submitted in the office of respondent no.3.

6. Having heard learned counsel for the parties, I am of the view that this appeal deserves to be allowed.

7. Admittedly, appellant is also the son of deceased employee Ayodhya Prasad who was serving under the employment of respondent no.3. Indeed, the respondents no.1 and 2 as well as the appellant are real brothers and sons of Ayodhya Prasad. Hence, all these three brothers being the heirs, fall in Class I of the Schedule to Section 8 of the Hindu Succession Act and they are equally entitled for the amount which is lying in the Department of respondent no.3. The decision of Supreme Court Shipra Sengupta (Supra) is squarely applicable in the present case, therefore, by holding that present appellant is also entitled for the 1/3 r d amount which is lying in the office of the respondent no.3, the order impugned is modified and it is hereby held that succession certificate be issued in the name of appellant as well as to respondents no.1 and 2 having 1/3 r d share each.

8. With the aforesaid modification in the impugned order, this appeal is hereby allowed to the extent indicated hereinabove. No costs. (A.K. Shrivastava) Judge
rao

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