

Vijay Kumar Vs. Smt. Hemlata Judgement Given By: Hon'ble Shri Justice Rajendra Menon

Vijay Kumar Vs. Smt. Hemlata Judgement Given By: Hon'ble Shri Justice Rajendra Menon

SooperKanoon Citation : sooperkanoon.com/1128586

Court : Madhya Pradesh

Decided On : Feb-14-2014

Appellant : Vijay Kumar

Respondent : Smt. Hemlata Judgement Given By: Hon'ble Shri Justice Rajendra Menon

Advocate for Pet/Ap. : Shri. Imtiaz Husain

Judgement :

C.R.No.507/2013.

1 (Vijay Kumar versus Smt.

Hemlata & otheRs.14/02/2014.

Shri Imtiaz Husain, learned counsel for petitioner.

This revision under Section 388(3) of the Indian Succession Act, 1925 has been filed challenging the orders passed by the Trial Court and the Appellate Court in the matter of rejecting a application for grant of Succession Certificate in a proceeding held under Section 372 of the Indian Succession Act, 1925.

Applicant is the son of late Smt.

Shanta Bai and in the name of Smt.

Shanta Bai saw mill was functioning in District Betul based on the licence and permission granted by the Forest Department.

It is seen that after death of Smt.

Shanta Bai on the ground that the licensee has died, licence was cancelled and thereafter petitioner made efforts for renewal of the licence and its transfer and registration in his name.

As the saw mill and equipments lying therein was in the name of Smt.

Shanta Bai, a died person, the Forest Department insisted upon the petitioner to obtain succession certificate.

Accordingly, petitioner filed an application under Section 372 of the Indian Succession Act, 1925 and respondents No.2 to 5 who are other surviving legal heirs of Smt.

Shanta Bai were impleaded as party.

Respondents No.2 to 5 gave their NOC for grant of succession certificate but the succession certificate has C.R.No.507/2013.

2 (Vijay Kumar versus Smt.

Hemlata & others been rejected by the Trial Court and the Appellate Court only on the ground that the licence for running saw mill has expired and therefore, now no useful purpose would be served in granting succession certificate.

On perusal of the evidence and statements on record and the question involved in the matter, I am of the considered view that on such consideration the succession certificate could not be denied.

Applicant had requested for grant of succession certificate to run saw mill and if he was a legal heir entitled to succeed to the estate of his mother in accordance to law.

The statutory authority had to decide the question of succession in accordance to law without being concerned as to for what would be the effect of licence to run the saw mill has expired.

Expiry of the licence to run saw mill or condition of saw mill are of no consequence, when original owner of the saw mill was no more in existence, the legal heirs have a right to seek possession of the same and use it in accordance with law or to sell it etc. Merely because the licence to run saw mill has expired the succession certificate can not be denied.

Accordingly, in rejecting the application on the considerations as are indicated in the order an error has been committed which warrants reconsideration.

Accordingly, this application is allowed the order dated C.R.No.507/2013.

3 (Vijay Kumar versus Smt.

Hemlata & otheRs.07/09/2013 Annexure P/1 and order dated 23/08/2012 Annexure P/2 are quashed.

The trial court is directed to reconsider the matter and decide the question of grant of succession certificate on merits in accordance to law after considering observation made hereinabove.

With the aforesaid observation, revision is allowed and disposed of.

Certified copy as per rules.

(Rajendra Menon) Judge AKM

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com