

indrawati Vs. General Public and Others

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Court : Punjab and Haryana

Decided On : Feb-21-2014

Appellant : indrawati

Respondent : General Public and Others

Judgement :

Civil Revision No.2813 of 2013(O&M) 1 In the High Court of Punjab and Haryana at Chandigarh 228 Civil Revision No.2813 of 2013(O&M) Date of decision: 21.2.

2014 Indrawatipetitioner Versus General Public and othersRespondents
CORAM: HON'BLE MRS.JUSTICE SABINA Present: Mr.Ravinder Malik, Advocate for the petitioner.

Mr.D.D.Gupta, Addl.A.G.Haryana.

Ms.Shreya Goyal, Advocate, for Mr.J.K.Goel, Advocate, for applicant-respondent No.2 to 4.

**** SABINA, J.

This petition has been filed challenging order dated 24.4.2013 (Annexure P-19).whereby application moved by the petitioner under Order 1 Rule 10 of the Code of Civil Procedure, 1908 and setting aside the judgment dated 6.12.2011 (Annexure P- 10) was dismissed.

I have heard learned counsel for the parties and have gone through the record available on the file carefully.

In the present case, Indrawati-petitioner moved an application for setting aside the ex parte judgment dated 6.2.2011 passed in favour of Saroj Devi.

Saroj Devi and her children filed a Devi Anita petition under Section 372 of the Hindu Succession Act, 1956 (the 2014.03.06 12:10 I am approving this document Chandigarh Civil Revision No.2813 of 2013(O&M) 2 Act for short) that they be declared successors of deceased Rampal.

Petitioner also filed a petition under Section 372 of the Act seeking succession certificate that she was the successor of deceased Rampal being his second wife.

However, the petition filed by Saroj Devi was allowed in ex parte vide order dated 6.12.2011.

In the said proceedings, petitioner was not a party.

Hence, the application was moved by the petitioner that she be impleaded as a party in the petition filed by Saroj Devi and her children and the ex parte judgment passed in their favour be set aside.

Admittedly, petitioner is the second wife of deceased Rampal.

So far as Saroj Devi is concerned, she is the fiRs.wife of deceased Rampal.

During the subsistence of marriage of Rampal with Saroj Devi, the marriage of Rampal with the petitioner cannot be said to be a valid marriage.

Hence, petitioner being the second wife of deceased Rampal, is not entitled to get the succession certificate as marriage of deceased Rampal was still in subsistence with his fiRs.wife.

So far as the judgment of the Apex Court in case Vidyadhari and others versus Sukhrana Bal and others 2008 (1) RCR (Civil) 900 relied upon by learned counsel for the petitioner is concerned, the same fails to advance the case of the petitioner

as in the said case, it was held that the second wife was entitled to get the succession certificate on behalf of the children born out of the second marriage.

It was also held that the fiRs.wife would get 1/5th share, whereas, four children, born out of the second marriage would Devi Anita get 1/5th share each.

So far as the second wife is concerned, she 2014.03.06 12:10 I am approving this document Chandigarh Civil Revision No.2813 of 2013(O&M) 3 was not entitled to receive share in the property of her husband.

It is not the case of the petitioner that deceased Rampal had taken divorce from his fiRs.wife and got married to her.

Hence, the alleged marriage of Rampal with Indrawati cannot be said to be a valid marriage.

No child was born to the petitioner out of her alleged wedlock with deceased Rampal.

Hence, Indrawati-petitioner could not be said to be a necessary party in the petition filed by Saroj Devi and her children for grant of succession certificate.

In these circumstances, the trial Court had rightly dismissed the application moved by the petitioner.

No ground for interference by this Court is made out.

Dismissed.

(SABINA) JUDGE February 21, 2014 anita Devi Anita 2014.03.06 12:10 I am approving this document Chandigarh

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