

Shakuntala Devi and ors Vs. Jainul Ansari and ors

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Court : Jharkhand

Decided On : Mar-06-2013

Appellant : Shakuntala Devi and ors

Respondent : Jainul Ansari and ors

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI. W.P. (C) No. 7607 of 2011
Shakuntala Devi @ Kaushalya Devi & Others Petitioners -V e r s u s- Jainul Ansari
& Others Respondents. CORAM: - HONBLE MR. JUSTICE P.P. BHATT. For the
Petitioners : - Mr. Ajay Kr. Singh and B.K. Thakur, Advocate. 06/06.03.2013 The
petitioners by way of the present petition under Article 227 of the Constitution of
India have prayed for issuance of an appropriate writ/order/direction for quashing
and setting aside the order dated 19.11.2011, passed by the learned Sub-Judge,
VIII, Ranchi in Title Suit No. 120 of 2004, whereby the petitioner's application
dated 16.11.2011, for adducing evidence, has been rejected.

2. Heard the learned counsel for the petitioners.

3. Perused the impugned order as well as other materials placed on record.

4. It appears that the court below passed an order regarding substitution of the
legal heirs of the defendant no. 24 on 08.03.2011 and thereafter, an opportunity
was also given to him to file his written statement and the said written statement is
also accepted on record. But subsequently, thereto, without giving reasonable
opportunity to adduce evidence of these witnesses, the stage of oral evidence has

been ordered to be closed by the court below. It appears that request was made by the petitioners by filing an application dated 16.11.2011 (Annexure-5). However, without proper consideration of the said application, the court below by order dated 19.11.2011 kept the matter for argument.

5. Under the circumstances, the substituted legal heirs of the defendant No. 24 i.e. 24 (a) and 24 (b) are required to be given an opportunity to adduce their evidence in the matter. The impugned order dated 19.11.2011 is required to be set aside and the matter is required to be remitted to the court below with a direction to permit the defendant nos. 24 (a) and 24 (b) to adduce their evidence in the matter. Therefore, the impugned order dated 19.11.2011, passed by the learned Sub-Judge, VIII, Ranchi in Title Suit No.120 of 2004 is ordered to be quashed and set aside and the matter is remitted to the court below with a direction to permit the defendant nos. 24 (a) and 24 (b) to adduce their evidence in the matter.

6. Accordingly, this writ petition is allowed without issuance of notice to the other side, so that Title Suit No 120 of 2004 being an old suit may proceed further. (P.P. Bhatt, J.) APK

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