

**IN THE COURT OF ABHISHEK PHUTELA,
ADDITIONAL CIVIL JUDGE (SENIOR DIVISION),
GURUGRAM. UID Code No. HR0220.**

Petition No. : 02 of 2018.
CIS No. : SUCC/02/2018.
CNR No. : HRGR02-000058-2018.
Date of institution : 04.01.2018.
Date of decision : 31.08.2018.

1. Neelam Rathore D/o Sh. Jagmal Singh S/o Sh. Ram Lal, R/o Village Sultanpur, Tehsil Farrukh Nagar, District Gurgaon and W/o Sh. Abhay Singh Rathore, r/o Flat No. 4, Anand Ganga Complex, Second Floor, Sardar Pura, Shastri Nagar, Jodhpur, Rajasthan. Aged 64 years.
2. Umesh Chauhan S/o Sh. Jagmal Singh S/o Sh. Ram Lal, R/o Village Sultanpur, Tehsil Farrukh Nagar, District Gurgaon.
3. Tarunesh S/o Sh. Jagmal Singh S/o Sh. Ram Lal, R/o Village Sultanpur, Tehsil Farrukh Nagar, District Gurgaon
4. Yogesh Kumar Chauhan S/o Sh. Jagmal Singh S/o Sh. Ram Lal, R/o Village Sultanpur, Tehsil Farrukh Nagar, District Gurgaon (Died on 04.07.2006 through his L.R's:
 - (a) Usha Chauhan Widow
 - (b) Apporva Chauhan Daughter
 - (c) Shivam Chauhan Son.
5. Lovesh Chauhan S/o Jagmal Singh S/o Ram Lal
All residents of Village Sultanpur, Tehsil Farrukh Nagar, District Gurgaon, died on 10.06.2009 leaving behind his L.R's :
 - (a) Shail Bala Chauhan Widow
 - (b) Shivastha Chauhan Daughter
 - (c) Ishan Chauhan Son

...Petitioners

Versus

General Public.

...Respondent.

Petition u/s 372 of the Indian Succession Act.

Presence: Sh. Anil Kumar Verma, Counsel for petitioners.
(Respondent - G.P. exparte vide order dated
21.02.2018).

JUDGMENT:

This is a petition filed under Section 372 of Indian Succession Act 1925 for grant of a Succession Certificate regarding bank deposit in favour of the petitioners to the extent of 1/5th share.

2. Brief facts of the case are that the petitioner No.1 is daughter, 2 and 3 are the sons and petitioners No. 4 & 5 are the L.R's of the son of deceased Jagmal Singh S/o Sh. Ram Lal, who died on 19.11.2016, leaving behind the petitioners as his legal heirs. The petitioners are the sons and daughter of deceased Jagmal Singh and having legal rights to seek the relief of succession certificate in respect of the debts left behind the deceased. The amount lying deposited in the SBP Mini Secretariat, Gurgaon now known as SBI was received by the deceased from the LD. Reference Court is LA Case and enhancement of the compensation amount of the land acquired for the development of the KMP express way. After the death of Jagmal Singh Chauhan, the petitioners applied for withdrawal of bank balance amount and shares kept in his bank

accounts but the concerned official of the SBI, Branch office at Mini Secretariat, Gurgaon declined to release the amount after furnishing the required documents and asked to the petitioners to bring the Succession Certificate. The deceased was resident of Village Sultanpur, Tehsil & District Gurgaon as the land is situated in the revenue estate of Village Sultanpur, Tehsil Farrukhnagar, District Gurgaon. Moreover the Bank in which the amount is lying deposited in Gurgaon. The deceased was having an amount of Rs.25,93,716 on 25.12.2016 and Rs.27,00,218/- as on today in the account No. 55146104256 in S.B.P. Mini Secretariat Administrative and Judicial Complex Branch, Gurgaon now known as S.B.I. No other petition between the same parties or between the parties under whom they or any of them claim litigating on the same grounds has been previously instituted or finally decided by any competent Court of law having its jurisdiction or limited jurisdiction. The deceased having agriculture land and residential in his name at Village Sultanpur now transferred in the name of the petitioners as they are ordinary resident of Village Sultanpur and bank account of in S.B.P. Gurgaon situates within the territorial jurisdiction of this Court. Hence this Court has right to try and decide the present petition as per clause prescribed in law. Hence, this petition.

3. Notice of the petition was given to the respondent - General Public through publication in newspaper “Jyoti Darpan”, which was duly executed. Despite service, no one appeared on behalf of General Public to contest the petition, as such, **respondent – General Public was proceeded against exparte vide order dated 21.02.2018.**

4. In their evidence, petitioners examined Neelam Rathore (petitioner No.1) as PW1, Usha Chauhan (Petitioner No.4(a) as PW2, Shail Bala Chauhan (petitioner No. 5(a) as PW3, Mahender co-villager as PW4 and Jaiveer Panchayat Member as PW5 and tendered documents Ex.P1 to Ex.P26. Thereafter, evidence of petitioners was closed by counsel vide his separate statement on 05.07.2018.

5. Learned counsel for the petitioners was heard and the record was perused with due care and circumspection.

6. In order to substantiate their case, petitioners No. 1, 4(a) and 5(a) have examined themselves as **PW1 to PW3** and tendered their respective affidavits Ex.PW1/A, Ex.PW2/A and Ex.PW3/A. They have categorically stated that Late Sh. Jagmal Singh Chauhan was the owner of the agricultural land situated in Village Sultanpur and out of which some was acquired by the State of Haryana for the development of KMP Express Highway, copy of the statement 19 and award are

Ex.P1 & Ex.P2. The rest of the land was inherited by the applicants vide mutation No.8340 dated 26.04.2017, copy of which is Ex.P3. The enhancement amount was paid by the State of Haryana in execution petition and the same was deposited in the bank account of deceased Jagmal Singh Chauhan, bearing account No. 55146104256 in SBP Mini Sectt. Gurugram now known as SBI, Mini Sectt., copy of passbook is Ex.P4. Petitioners were impleaded as his legal heirs vide order dated 05.04.2017 by the Ld. Reference Court, copy of which is Ex.P5. Their mother died during the lifetime of their father Late Sh. Jagmal Singh Chauhan, copy of death certificate is Ex.P6, death certificate of Late Sh. Jagmal Singh Chauhan is Ex.P7, death certificates of Yogesh Kumar Chauhan and Lovesh Chauhan are Ex.P8 & Ex.P9. They further submitted that after family settlement all the petitioners have applied for getting the amount of Rs.26,76,860/- from the bank, copy of which is Ex.P10. They also tendered their identity proofs as Ex.P11 to 16. PW4 Mahender tendered his affidavit Ex.PW4/A and deposed that his brother was co-owner of the agricultural land detailed in petition and admitted the claim of petitioners. He placed on record his identity proofs as Ex.P17 & Ex.P18. Copy of Jamabandi is Ex.P19. PW5 Jaiveer tendered his affidavit Ex.PW5/A and deposed that he is an

elected Panchayat member of the Gram Panchayat of Village Sultanpur, his I.D.proof is Ex.P20 and Ex.P21. He personally knows the petitioners and their family members who are his co-villagers and neighbours and further admitted the claim of petitioners. This oral and documentary evidence has gone un rebutted and unchallenged as no one appeared to contest the petition and to rebut oral and documentary evidence produced by petitioners. Thus, there is no reason to disbelieve the oral/documentary evidence produced by petitioners. The petitioners have produced sufficient and satisfactory oral and documentary evidence and thereby proved claim that they are entitled to succession certificate as prayed for.

7. In view of the discussion made above, the present petition is, hereby, allowed and succession certificate be issued in favour of the petitioners in respect of bank deposit lying in the name of deceased Jagmal Singh Chauhan in the account No. 55146104256 in favour of the petitioners to the extent of 1/5th share with upto date interest, subject to the condition that petitioners shall furnish non judicial papers and indemnity bonds equivalent to the value of amount claimed by them, to indemnify any better claimant, if found in future. The petitioners will also give an undertaking that they shall be liable to deposit the amount equivalent to the amount claimed

by them on the basis of succession certificate, if in future, any better claimant comes to the Court. File after due compliance be consigned to record room.

Announced: 31.08.2018

(Abhishek Phutela)
Addl. Civil Judge (Sr.Divn.),
Gurugram. *UID Code No. HR0220*

Note: This judgment contains seven pages and each page has been checked and signed by me.

Addl. Civil Judge (Sr.Division),
Gurugram.

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