

CNR No.-MHNG100003212018



Received on : 25/01/2018
Registered on : 25/01/2018
Decided on : 17/03/2021
Duration : Y M D
03 01 22

IN THE COURT OF CIVIL JUDGE SENIOR DIVISION, UMRER
(Presided over by Shri. S.K. Fokmare)

Succession Case No.01/2018

Exhibit No.42

Ku. Mitali D/o. Rajman Loutan
Aged About 17 Yrs, Occ. Student
Through her natural guardian mother
Smt. Meera Wd/o. Rajman Loutan
Aged 37 years,
R/o. W.C.L. Colony, Umred,
Tah. Umred, Dist. Nagpur.

.... **Applicant**

--- Versus ---

- [01] The Regional Commissioner,
CMPF, CMPF Office, Jaripatka,
Nagpur, Tah. & Dist. Nagpur.
- [02] Western Coal Fields
Through Its Senior Manager (Personal),
Makardhokda Sub Area, Umred Area,
W.C.L., Umred.
- [03] Rahul Rajman Loutan
R/o. Morpar Mines, Tah. Chimur,
Dist. Chandrapur
- [04] Atul Rajman Loutan
R/o. Central Works Shop,
Jabalpur.

..... **Non-applicants**

Adv. R. K. Thakkar Learned Advocate for applicant
Adv. Salim S. Sheikh Learned Advocate for Non-applicant no.1
Matter proceeded Ex-parte against Non-applicant no.2
Adv. Smt. A.R. Bagde Learned Advocate for Non-applicant no.3 & 4

(J U D G M E N T)
(Delivered on this 17th March, 2021)

[01] This is an application under section 372 of the Indian Succession Act, 1925 for grant of succession certificate regarding 1/3rd share in due amount laying with non-applicant no.1.

[02] During application Exh.1 it has been contended by applicant that, she is a daughter of late Rajman Santaram Loutan who died on 08/07/2010. Late Rajman Santaram Loutan was in service at W.C.L., Makardhokda Colliery bearing CMPF A/c. No.NGP/8/1753. The applicants mother namely Meera Wd/o. Rajman Loutan is the second wife of late Rajman. One Sarita Wd/o. Rajman Loutan was the first wife of late Rajman. Sarita Wd/o. Rajman Loutan died on 03.11.2011. Out of valid wedlock with Rajman the Sarita had given birth to 02 sons namely Atul and Rahul.

[03] It has been contended that after demise of late Rajman Santaram Loutan an amount of Rs.4,17,502/- is due for disbursement at the account of late Rajman. Said amount is due for disbursement with non-applicant no.1. Present applicant as well as non-applicant no.3 and 4

are the sole Class-I heirs left by late Rajman Santaram Loutan. The applicant had approached the non-applicant no.1 for releasing her 1/3rd share. However, the non-applicant no.1 insisted for bringing the succession certificate. It has been contended that the non-applicant no.3 and 4 are not co-operating the applicant for get releasing the due amount. Hence this application for grant of succession certificate regarding 1/3rd share from Rs.4,17,502/- laying with non-applicant no.1.

[04] After institution of application, notice came to be issued to non-applicant no.1 to 4. Despite of service of notice none appeared for non-applicant no.2, hence the application proceeds ex-parte against non-applicant no.2. Likewise, despite of getting sufficient opportunity the non-applicant no.3 and 4 failed to submit their reply, hence the application proceeds without reply against non-applicant no.3 and 4.

[05] The non-applicant no.1 vide his reply Exh.20 admitted the fact that late Rajman Santaram Loutan holding CMPF A/c.No. NGP/8/1753 and was in service at W.C.L. Makardhokda Colliery. It has been contended that till March 2018 towards provident fund an amount of Rs.4,91,496/- lying at the account of late Rajman Santaram Loutan. The amount is payable as per the Coal-mines Pension Scheme and Provident Fund. Thus the non-applicant no.1 resisted the application.

[06] Following points arise for my determination, I recorded my findings thereon for the reasons mentioned thereunder.

	Points		<u>Findings</u>
1	Whether applicant is entitled for grant of succession certificate regarding 1/3rd Provident Fund amount as prayed for ?	:	In Affirmative
2	What order ?	:	As per final order

REASONS

[07] In order to substantiate her claim, applicant has led the evidence of her natural guardian mother namely Smt. Meera Wd/o. Rajman Loutan as A.W. No.1 at Exh.24. Applicant closed her oral evidence vide pursis Exh.38. On the other hand the non-applicant no.1 has not examined any witness in support of his defence and for that regard submitted evidence close pursis at Exh.39.

[07] Amongst the documentary material relied on by both applicants and non-applicants, the birth certificate of applicant is at Exh.28. The medical service card issued in the name of deceased Rajman Loutan is at Exh.30. The death certificate of Rajman Loutan is at Exh.31. The Aadhar Card of applicant Mitali is at Exh.32. The copy of letter dt.20.02.2017 issued by Divisional Commissioner to G.M. W.C.L. Office Umred is at Exh.36. The copy of letter dt.03.11.2015 addressed to G.M.

W.C.L. Office is at Exh.37. Public notice issued in daily newspaper “Dainik Bhaskar” dt.07.08.2018 is at list Exh.19.

[08] Heard learned counsel for applicant and non-applicant no.1 at considerable length. I have given my though full consideration to the submissions advanced by learned counsel for both sides.

[09] Considering the submissions made by both sides, if we go through the admitted facts on record, it is not in dispute that late Rajman Santaram Loutan was in service at W.C.L., Makardhokda Colliery, bearing CMPF A/c. No.NGP/8/1753. It is not in dispute that late Rajman died on 08.07.2010. It is not in dispute that up to March 2018 an amount of Rs.4,91,496/- towards Provident Fund is pending at the account of deceased Rajman Santaram Loutan. It is not in disputed that said amount is lying with non-applicant no.1.

[10] By way of this application it is the contention of applicant that she being the daughter of late Rajman Santaram Loutan is legally entitled to receive 1/3rd share from aforesaid provident fund lying with the account of late Rajman Santaram Loutan. It has been contended that along with applicant the non-applicant no.3 and 4 are also legally entitled to claim 1/3rd share each from aforesaid amount. The applicant has stated her contention on oath. As per evidence on record late Rajman Santaram Loutan died leaving behind in all three Class-I heirs

i.e. applicant and non-applicant no.3 as well as 4. Thus, being Class-I heirs applicant as well as non-applicant no.3 and 4 are seems to be legally entitled to claim 1/3rd amount each from Rs.4,91,496/- provident fund amount lying with non-applicant no.1. The non-applicant no.1 even though resisted the claim put fourth by applicant, however it has not been stated by non-applicant as to how the applicant is not entitled to claim the 1/3rd share from the provident fund amount pending for disbursement.

[11] Here in case at hand, despite of knowledge the non-applicant no.3 and 4 have not taken any steps to claim their 1/3rd share each from the provident fund amount lying with non-applicant no.1. Thus, as non-applicant no.3 and 4 are not co-operating the applicant for getting succession certificate for whole provident fund amount of Rs.4,91,496/-, the applicant is seems to be entitled to claim her 1/3rd share from an amount of Rs.4,91,496/- and the interest on her 1/3rd share. Thus for the reasons discussed above I have no hesitation to hold that the applicant is entitled for grant of succession certificate to the extent of her 1/3rd share and the interest thereon out of provident fund amount of Rs.4,91,496/- i.e. the amount together with interest up to March 2018 as stated in para no.3 of W.S. Exh.20 of non-applicant no.1. Accordingly, I answer point no.1 in the affirmative and in answer to point no.2 I pass the following order.

ORDER

- [01] The application is allowed.
- [02] Issue succession certificate in the name of applicant Kum. Mitali D/o. Rajman Loutan through her natural guardian mother Smt. Meera Wd./o. Rajman Loutan for receiving 1/3rd share and the interest thereon from provident fund amount of Rs.4,91,496/- lying at the credit of late Rajman Santaram Loutan with non-applicant no.1.
- [03] The succession certificate be issued on payment of requisite court fees on 1/3rd share by the applicant.
- [04] Applicant to furnish indemnity bond regarding the amount of 1/3rd share claim by her.
- [05] Dictated and pronounced in open court.

Date: 17.03.2021

[S. K. Fokmare]
Civil Judge Senior Division, Umrer.

Certificate

"I affirm that the contents of this P.D.F. file judgment are word to word same as per original judgment".

Name of Stenographer	: Mr. Mahendranath D. Nagpure. Stenographer (Grade III)
Court Name	: Civil Judge Senior Division, Umrer
Case argued on	: 17/03/2021
Judgment dictated on	: 17/03/2021
Transcription ready on	: 17/03/2021
Judgment checked and signed on	: 17/03/2021

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JUDGMENTS/