

(1996) 09 MP CK 0051

Madhya Pradesh High Court

Case No: Miscellaneous Appeal No. 286 of 1992

Kheekbai and Others

APPELLANT

Vs

Chamru Ram Yadav
and Others

RESPONDENT

Date of Decision: Sept. 3, 1996

Acts Referred:

- Hindu Succession Act, 1956 - Section 15(1)
- Provident Funds Act, 1925 - Section 5(1)(2)
- Succession Act, 1925 - Section 372, 384

Citation: (1996) 2 DMC 698

Hon'ble Judges: N.P. Singh, J

Bench: Single Bench

Advocate: N.S. Kale, for the Appellant; V.N. Awasthi and R.K. Samaiya, for the Respondent

Final Decision: Dismissed

Judgement

N.P. Singh, J.

This appeal u/s 384 of the Indian Succession Act, 1925 by the objectoin /appellant is directed against the order dated 8.4.1992 passed by the First Addl. District Judge, Raigarh in Succession Case No. 4 of 1989, allowing the application for grant of succession certificate in the name of the respondent in respect of the date and sureties of the deceased Sonkunwar Bai.

2. The appellants/respondents moved an application u/s 372 of the Indian Succession Act for grant of succession certificate in respect of an amount of Rs. 31,484/-, deposited towards G.P.F. and Family Benefit Fund by the deceased Sonkunwar Bai, who was working as a peon in the Soil Conservation Office at Dharamjaigarh, Distt. Raigarh and died issueless on 6.11.1987, on the basis of the nomination in the G.P.F. account submitted by the deceased in her office. The appellants objected to the grant of succession certificate to the respondents on the

ground that they are heirs of the husband of deceased, being brothers and sisters of the husband of the deceased, and they claimed to be the nearest relation and heirs of the deceased. It was further alleged that the nomination form was bogus and maneuvered.

3. The learned Addl. District Judge, on consideration of the evidence adduced by the parties, allowed the application for grant of succession certificate to the respondents.

4. Mr. N.S. Kale, Counsel for the appellants, has contended that the learned Additional District Judge has not considered the case in its proper legal perspective and has wrongly allowed the application for grant of succession certificate to the respondents. He also placed reliance in [Smt. Sarbati Devi and Another Vs. Smt. Usha Devi](#), wherein the Apex Court has held :

"A mere nomination made u/s 39 does not have the effect of conferring on the nominee any beneficial interest in the amount payable under the life insurance policy on the death of the assured. The nomination only indicates the hand which is authorised to receive the amount, on the payment of which the insurer gets a valid discharge of its liability under the policy. The amount, however, can be claimed by the heirs of the assured in accordance with the law of succession governing them."

5. It is evident from Ex. P-I that the respondents were nominated in the form submitted by the deceased Sonkunwar Bai in respect of her G.P. Fund. There is nothing to disbelieve the nomination form (Ex. P-I).

6. Deceased Sonkunwar Bai was employed as a peon in the establishment of the Soil Conservation Office at Dharamajagarh. The nomination was made by the deceased in the form and submitted in her office, as provided under Rule 8 of the Madhya Pradesh General Provident Fund Rules, which lays down that a subscriber to the General Provident Fund shall, as soon as may be after joining the Fund, send to the Head of Office, a nomination conferring on one or more persons the right to receive the amount that may stand to his credit in the fund, in the event of his death before that amount has become payable or having become payable has not been paid.

7. Section 5(1)(2) of the Provident Fund Act, 1925 lays down as under :

5. Rights of nominees.-(1) Notwithstanding anything contained in any law for the time being in force or in any disposition, whether testamentary or otherwise, by a subscriber to or depositor in a Government or Railway Provident Fund of the sum standing to his credit in the Fund, or of any part thereof, where any nomination, duly made in accordance with the rules of the Fund, purports to confer upon any person the right to receive the whole or any part of such sum on the death of the subscriber or depositor occurring before the sum has become payable or before the sum having become payable, has been paid, the said person shall, on the death as aforesaid of the subscriber or depositor, become entitled, to the exclusion of all

other persons, to receive such sum or part thereof, as the case may be, unless -

(a) such nomination is at any time varied by another nomination made in like manner or expressly cancelled by notice given in the manner and to the authority prescribed by those rules, or

(b) such nomination at any time becomes invalid by reason of the happening of some contingency specified therein, -

and if the said person predeceases the subscriber or depositor, the nomination shall, so far as it relates to the right conferred upon the said person, become void and of no effect:

Provided that where provision has been duly made in the nomination in accordance with the rules of the Fund, conferring upon some other person such right in the stead of the person deceased, such right shall, upon the deceased as aforesaid of the said person, pass to such other person.

(2) Notwithstanding anything contained in (the Indian Succession Act, 1925), or the Bombay Regulation VIII of 1827, any (person, who becomes entitled as aforesaid, may be granted) a certificate under that Act, or that Regulation, as the case may be, entitling him to receive payment of such sum or part, and such certificate shall not be deemed to be invalidated or superseded by any grant to any other person of probate or letters of administration to the estate of the deceased."

8. It is thus evident that on the death of the subscriber or depositor the nominee of the deceased subscriber under Rule 8 of the M.P. General Provident Fund Rules become entitled to receive the amount payable to the deceased subscriber.

9. Section 15 of the Hindu Succession Act, 1956 reads as under: The property of a female Hindu dying interstate shall devolve according to the rule set out in Section 16, -

(a) firstly, upon the sons and the daughters (including the children of any pre-deceased son or daughter) and also the husband;

(b) secondly, upon the heirs of the husband;

(c) thirdly, upon the mother and father,

(d) fourthly, upon the heirs of the father; and

(e) lastly, upon the heirs of the mother.

10. Apart from the nomination of the respondents in the nomination form the respondents are also preferential heir of the deceased being the heirs of the husband of the deceased as provided u/s 15(1) of the Hindu Succession Act. The case of Sarbati Devi (supra) relied upon by Mr. Kale more supports the case of the respondents than the appellants.

11. For the reasons mentioned above, I do not find any reason to interfere with the impugned order. There is no merit in this appeal. It is dismissed accordingly.