



Presented on : 20.10.2022
Registered on: 20.10.2022
Decided on : 01.09.2023
Duration : Y M D
00 10 11

**IN THE COURT OF IInd JOINT CIVIL JUDGE, SENIOR
DIVISION, BULDANA.**

(Presided over by : A. U. Supekar)

SUCCESSION CASE NO. 27/2022

Exh.No. 35.

CNR No.MHBU 0200 1050 2023

01. **Asha w/o. Satish Gawhad,** }
Age: 55 years, Occ.: Household. }
R/at- Dalal Lay-out, Buldana. }
02. **Sunita w/o. Vijay Patil,** }
Age: 60 years, Occ.: Household. }
R/at- IInd Floor, Sanket Bhavan, }
Shegaon, Tq- Shegaon, Dist. }
Buldana. }
03. **Sadhana Jaiprakash Nemade,** }
Age: 47 years, Occ.: Household. }
R/at- Balapur road, Dhanuka }
Compound, Shegaon, Tq- Shegaon }
Dist- Buldana. }

... **APPLICANTS.**

Versus

01. **Smt. Anjali wd/o. Vilas Patil** }
Age- 47 years, Occ- Household }
R/at- Row House No. 4, Hill View }
Society, Ram-Nagari, Ambegaon }
Badruk, Pune, Tq & Dist- Pune. }
02. **Arpit S/o. Vilas Patil** }
Age- 24 years, Occ- Education. }
R/at- Row House No. 4, Hill View }
Society, Ram-Nagari, Ambegaon }
Badruk, Pune, Tq & Dist- Pune. }

}... **RESPONDENTS**

Appearance-

Advocate for Applicants : Adv. P. K. Patil.
Advocate for Respondents : Adv. S. N. Dhole.

J U D G M E N T

(Delivered on : 01st Sept., 2023)

This is an application under section 372 of the Indian Succession Act.

02. Brief facts of the applicants' case are as under: –

The applicants are real sisters of deceased Kalpana Ramrao Patil who died on 13.08.2021 due to illness. The applicants have brother namely Vilas who is also died. Hence, the non applicant No. 1 being wife and No. 2 being son of Vilas; they are also legal heirs of deceased Kalpana. Deceased Kalpana was un-married. The parents of applicants i.e. namely Ramrao Ramchandra Patil and Sushila Ramrao Patil were also died on 28.03.2021 and 30.04.2022 respectively. As the deceased Kalpana died un-married and her mother being class I heir also died, now the applicants being real sisters and the non-applicants being legal heirs of deceased brother; they all are the legal heirs of deceased Kalpana.

03. Deceased Kalpana was unmarried and was serving in Zilla Parishad Buldana. She was also having life insurance policy with Life Insurance Corporation of India. After sad demise of Kalpana, the applicants being the legal heirs have

claimed service benefits with Zilla Parishad, Buldana and Life Insurance Corporation. However, they have demanded succession certificate. Hence, applicants have moved application and prayed to allow it.

04. In response to the notices issued to respondents, they appeared through Advocate vide Vakalatnama at Exh. 17 on 20.03.2023; however, failed to file written statement till 28.04.2023, hence, No Written Statement order passed against them and application proceeded without written statement against them.

05. The applicant led oral and documentary evidence in support of pleading. Respondents did not choose to lead oral or documentary evidence. Heard both sides. After hearing both sides and going through the record, following points arose for my determination and consideration and I record my findings thereon for the reasons given there under:

SR.NO	POINTS	FINDINGS
1.	Do applicants prove that they themselves along with respondents are the legal heir of deceased Kalpana Ramrao Patil?	Yes.
2.	Is the applicants along with respondents are entitled for getting succession certificate as prayed ?	Yes.

3. What Order ? : Application is
Allowed.

REASONS

06. In order to substantiate the claim, as far as oral evidence is concerned, the applicant No. 1 Asha has filed her affidavit of examination in chief at Exh. 20 wherein affirmed and reiterated contents of the application. She affirmed that deceased Kalpana Ramrao Patil is her real sister, she died unmarried, she was serving in Zilla Parishad, Buldana, during her life time she had taken life insurance policies from Life Insurance Corporation of India. Deceased Kalpana died unmarried. Their parents namely Ramrao Ramchandra Patil and Sushila Ramrao Patil died on 28.03.2021 and 30.04.2022 respectively. She further affirmed that as deceased Kalpana died unmarried, her mother Sushila being class I heir also died, hence, the applicants being the daughters of deceased Sushila and respondents being the legal heirs of deceased Vilas (Son of Sushila) are legal heirs to deceased Kalpana. Hence, prayed to allow application.

07. As far as documentary evidence is concerned, the applicants relied on

- (i) Original death certificate of Kalpana Ramrao Patil
at Exh. 21.

- (ii) Original death certificate of Sushila Ramrao Patil at Exh. 22.
- (iii) Original death certificate of Ramrao Ramchandra Patil at Exh. 23.
- (iv) Original death certificate of Vilas Ramrao Patil at Exh. 24.
- (v) Original certificate issued by Life Insurance Corporation of India at Exh. 25.
- (vi) Self attested copy of Adhar-Card of applicant Asha at Exh. 26.
- (vii) Self attested copy of Adhar-Card of applicant Sunita at Exh. 27.
- (viii) Self attested copy of Adhar-Card of applicant Sadhana at Exh. 28.
- (ix) Copy of Daily News-paper 'Dainik Samana' at Exh. 29.
- (x) Original letter issued by Zilla-Parishad, Buldana along with list Exh. 34.

08. The Ld. Advocate appearing for applicants relying on oral and documentary evidence vehemently submitted that applicants have proved that they along with respondents are only legal heirs of deceased Kalpana; hence, prayed to allow application.

09. I have given anxious consideration to the submissions of both sides. I have minutely gone through

record. Now, I proceed further and discuss the points in consonance with evidence on record.

POINT NOS.1 AND 2 :

10. At the out-set, the applicants came with specific case that deceased Kalpana is their real sister who died unmarried, their parents are also died; hence, applicants being real sisters and respondents being legal heirs of deceased Vilas who is real brother of applicants, they are only legal heirs of deceased Kalpana. Further, aforesaid facts are affirmed by applicant No. 1 in her evidence affidavit at Exh. 20. Further, these facts are not denied by respondents.

11. As far as death of Kalpana is concerned, the applicants have filed death certificate at Exh. 21 which shows that Kalpana Ramrao Patil died on 13.08.2021. As far as death of parents are concerned, the applicants have filed death certificate of Shri. Ramrao Ramchandra Patil at Exh. 23 and death certificate of Sushila Ramrao Patil at Exh. 22. Those certificates shows that Ramrao died on 28.03.2021 and Sushila died on 30.04.2022. Death certificate at Exh. 24 shows that Vilas Ramrao Patil (Brother of deceased Kalpana and applicants) died on 06.09.2009.

12. Further, as per the order of Court, proclamation as well as public notice was given in daily news-paper. Proclamation report is at Exh. 09 which shows that it is duly

published on 14.12.2022. The copy of daily news-paper is filed at Exh. 29 which shows that public notice was published in daily News-paper "Samana" on 12.11.2022, however, in spite of proclamation and public notice no one appeared till today and opposed the application.

13. Proceeding further, 'General rules of succession in case of female Hindus' is given in section 15 of Hindu Succession Act, 1956. For ready reference, same is quoted as it is...

15. General rules of succession in the case of femal Hindus- (1) The property of a femal Hindu dying intestate shall devolve according to the rules set out in section 16-

(a) Firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and 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.

Sub-section (2) (a) deals in respect of property inherited by a female from her father or mother and (b) deals with property inherited by a female from her

husband or from her father-in-law; however, in this particular case, the property claimed by way of succession is self-acquired property of deceased Kalpana; hence, in my opinion, sub-section 2 is not at all applicable in this particular case.

14. Proceeding further, as deceased Kalpana died unmarried and property claimed is her self acquired property, in my opinion, in view of section 15 (1) (d), the applicants being daughters and respondents being legal heirs of pre-deceased son of father of deceased Kalpana, are entitled to receive property of deceased Kalpana.

15. As far as due and payable amounts are concerned, the applicants have filed original certificate issued by Life Insurance Corporation of India, Branch- Buldana at Exh. 25. I have minutely gone through it. It shows that deceased Kalpana Ramrao Patil had taken policies; detail particulars given in the certificate is quoted as under....

Sr. No.	Policy Number.	Table/Term	Sum Assured	Payable Amount.
1.	821985180	75/20/20	Rs. 1,00,000/-	Rs.1,49,000/-
2.	821985184	165/20/20	Rs. 2,50,000/-	Rs.3,20,000/-
3.	821985185	106/15/12	Rs. 50,000/-	Rs.1,22,000/-
4.	822037687	149/60/16	Rs. 2,50,000/-	Rs.3,64,000/-
5.	910906629	850/0/1	Rs. 3,00,000/-	Rs.3,00,000/-
Total Amount Rs. 12,55,000/-				

16. As far as due and receivable amount from Zillha Parishad, Buldana, is concerned, the applicants have filed original certificate dtd. 4.08.2023 along with list Exh. 34. On going through it, following amount is shown as due.

Sr. No.	Type of benefit.	Appro. Payable amount.
1.	Government Group Insurance Saving Fund.	Rs. 25,000/-
2.	Government Group Insurance Fund.	Rs. 4,80,000/-
3.	Benefits relating to Pension	Rs. 5,51,000/-
4.	Installment of 7 th pay commission.	Rs. 1,60,000/-
5.	NPS related benefit.	Rs. 4,00,000/-
Total amount		Rs. 16,16,000/-

17. Thus, from the available evidence on record, I hold that applicants being real sisters and the respondents being the legal heirs of deceased Vilas, in the absence of Class I heirs of deceased Kalpana are entitled to receive aforesaid amount. Hence, application deserves to be allowed. In view of aforesaid discussion, I answer issue No. 1 and 2 in affirmative.

AS TO ISSUE NO 3 :

18. In view of affirmative answer to issue No. 1 and 2 and in answer to issue No. 3 I pass following order....

ORDER

1. The application is allowed. The applicants being real sisters and respondents being legal heirs of deceased Vilas (Brother of deceased Kalpana) in the absence of Class I heirs of deceased Kalpana are entitled to receive an amount of Rs. 12,55,000/- (Rs. twelve lakhs and fifty five thousand only) towards Life Insurance Policies + Rs. 16,16,000/- (Rs. sixteen lakhs and sixteen thousand only) towards service benefits receivable from Zilla Parishad, Buldhana; Total Rs. 28,71,000/- (Rs. twenty lakhs seventy one thousand only) along with interest if any. Accordingly issue succession certificate in the name of applicants and respondents after payment of requisite Court fee stamp as per section 377 and Schedule VIII of Indian Succession Act, 1925.
2. Parties to bear their own costs.

(Pronounced in open Court after calling both the parties and their Ld. Advocates).

Date :- 01.09.2023
BULDANA.

(A.U.Supekar)
2nd Jt. Civil Judge (S.D),
Buldana.

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

Name of Stenographer	:	M. Idris G. Murtuza
Name of Court	:	Shri. A. U. Supekar, 2 nd Jt.Civil Judge Senior Division, Buldana
Date of Decision	:	01.09.2023
Judgment signed by the P.O. on	:	01.09.2023
Judgment uploaded on	:	01.09.2023