

IN THE COURT OF MUNSIFF SAMBA

Present:- Poonam Gupta
J.O Code:- JK00258

CNR No. JKSB020010122022

<u>File No.</u>	:- 102/Civil
<u>Date of Institution</u>	:- 17.10.2022
<u>Date of Decision</u>	:- 07.01.2023

Chanchla Devi, age 72 years, W/o Late Sh. Mukhtiar Chand R/o Karandi Tehsil & Distt. Samba

(Plaintiff)

Versus

1. Santosh Kumari W/O Darshan Kumar R/O Ladhwal Kathua
2. Pawan Kumar S/O Late Sh. Mukhtiar Chand R/o Karandi Tehsil & Distt. Samba.

(Defendants)

IN THE MATTER OF:-Suit for declaration to effect that the Plaintiff namely Chanchla Devi is legal heirs of deceased Late Sh. Mukhtiar Chand S/O Jagat Ram R/o Karandi Teh & Distt. Samba, who was died on 25-02- 2019 at Home, husband of the plaintiff was running post office account bearing No. 6087581511 in the Post Office Branch Samba, as such plaintiff is entitled to get the post office amount alongwith interest lying in the Post Office Branch Samba. With consequential relief of injunction restraining the defendants for claiming the said amount.

Present:-

Laxmi Thappa, Advocate for the plaintiff.
Abhinav Khanmotra, Advocate for the defendants.

J U D G M E N T

1. This suit was filed by the plaintiff before the Court of Ld. Principal District Judge Samba, where from the same was transferred to this Court for disposal under law.
2. Briefly stated the case of the plaintiff is that deceased Sh. Mukhtiar Chand S/O Jagat Ram R/o Karandi Tehsil & Distt. Samba died on 25-02-2019 at home. The plaintiff is wife of the deceased Mukhtiar Chand & defendants are daughters & son of deceased and plaintiff. It is worthwhile to mention here that deceased was running a Post office account bearing No. 6087581511 in the Post office Branch Samba but deceased died & leaving behind Plaintiff being his legal heirs, as such plaintiff is entitled to get the Post Office amount alongwith interest lying in the Post Office Branch Samba. The deceased during his life time make an Oral will in favour of plaintiff that if he dies, plaintiff is entitled to get the said amount alongwith interest from the said Post Office and this fact is very much in the knowledge of defendants but despite this fact the defendants raising a dispute that they are entitled to get the said amount. On dated 24-09-2022 defendants approached to the

concerned Post Office to get the said amount and when this fact came into the knowledge of the plaintiff she immediately approached to the defendants and make a request, that deceased namely Mukhtiar Chand during his life time make an oral will in favour of the plaintiff with regard to get the said Post Office amount But defendants again on 05-10-2022 openly declare that come what may they shall not allow the plaintiff to get the said amount.

3. The defendants on being summoned appeared in the Court and filed their written statement on 14.12.2022. In the written statement, the defendants have admitted the claim of the plaintiff in toto and finally submitted that they have no objection, if the decree as prayed for, is passed in favour of the plaintiff.

4. Proclamation of this suit was published in daily local newspaper "Bharat Times Jammu" in its edition dated December 22, 2022 inviting objections from all the concerned to contest the claim of the plaintiff, if any. However, no person appear before the Court to contest the claim of the plaintiff. Copy of the newspaper is placed on record.

5. In support of this, the statements of parties to the suit have been recorded which made part of the file, in which they have fully corroborated the averments made in the plaint. The parties to the suit are duly identified by their respective counsel.

6. Heard learned counsel and perused the plaint, statements of the parties recorded and written statements/objections filed by the defendants. I have also perused the Photostat copies of passbook bearing account no. 6087581511 and death certificate of deceased Mukhtiar Chand which reveals that deceased Mukhtiar Chand is the account holder of aforesaid account and he died on 25.02.2019.

7. Since, the defendants have admitted the claim of the plaintiff in respect of above said benefits, as such, the parties are not at issue. It has come on record that defendants in their written statements as well as in the statements recorded in the Court have submitted that they have no objection, if the suit, filed by the plaintiff, is decreed in her favour.

8. Hence, in the present case no issue either legal or factual arises between the parties. As such, this suit can be taken up for disposal in terms of Order-XII, Rule-VI of CPC read with Order XV, Rule-1 of CPC.

9. In view of the above discussion, the suit of the plaintiff is decreed in favour of the plaintiff and against the defendants whereby plaintiff is declared as the legal heir of deceased Mukhtiar Chand S/O Jagat Ram R/o Karandi Tehsil & District Samba. The decree shall be binding between the parties to the suit only, subject to existing provisions of law and shall not affect the right or claim of any person, who has not been made party to the suit. No order as to costs. Civil clerk is directed to draw a decree sheet accordingly. File after due compilation be consigned to records.

**Announced:
07.01.2023**

**Munsiff
Samba**

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DECREE SHEET

File No.	Date of Institution	Name of the plaintiff	Name of the Defendants	Nature of Suit	Date of Decision
102/Civil	17.10.2022	Chanchla Devi Age 72 years W/o Late Sh. Mukhtiar Chand R/o Karandi Tehsil & Distt. Samba	1. Santosh Kumari W/O Darshan Kumar R/O Ladhwai Kathua 2. Pawan Kumar S/O Late Sh. Mukhtiar Chand R/o Karandi Tehsil & Distt. Samba.	Suit for Declaration	07.01.2023

In the matter of:- Civil original suit for declaration to the effect that the plaintiff is the legal heir of deceased Tilak Raj S/o Puran Chand R/o Dabuj Shahzada Tehsil Ramgarh Distt. Samba, who was working as Senior Assistant in J&K Special Tribunal, Jammu and unfortunately died on 09/05/2022, while in active service, as such the plaintiff is entitled to receive the service benefit under SRO 43, Insurance benefits, G.P fund, gratuity, leave sanction, or any other benefit of the deceased arising out of the service rendered to the said department by the deceased.

With consequential relief of permanent prohibitory injunction restraining the defendants from claiming themselves to be the legal heir of deceased Tilak Raj S/o Puran Chand.

JUDGMENT

Suit is decreed in favour of the plaintiff namely Chanchla Devi, age 72 years, W/o Late Sh. Mukhtiar Chand R/o Karandi Tehsil & District Samba and against the defendants, whereby plaintiff is declared as the legal heir of deceased Mukhtiar Chand S/O Jagat Ram R/o Karandi Tehsil & District Samba. The decree shall be binding between the parties to the suit only, subject to existing provisions of law and shall not affect the right or claim of any person, who has not been made party to the suit. No order as to costs.

**Announced
07.01.2023**

**Munsiff
Samba**