

IN THE COURT OF MUNSIFF UDHAMPUR

CNR No:

JKUD020010712022

O.S. No:

109/2022

Date of Institution:

21.10.2022

Date of Judgment:

24.08.2023

Rashmi Sharma W/O Sandeep Kumar and D/O Durga Dutt Sharma R/O H No. 282 Ward No 2 Adarsh Colony Udhampur.

Versus

.... Plaintiff
Through Adv. Mr. Akash Kumar

Anjali Devi W/O Lt. Sh. Durga Dutt Sharma R/O Housing Colony Udhampur

...Defendant
Through Adv. Mr. Akhil Khajuria

In the matter of Suit for declaration that plaintiff is the legal heir of deceased Sh. Durga Dutt Sharma S/O Parmanand R/O Housing Colony Udhampur and the plaintiff being the daughter of the above said deceased Durga Dutt Sharma is entitled to inherit & succeed all the rights in the car (ALTO K10) Bearing registration no. JK1486859 with respect to the deceased Durga Dutt Sharma on the basis of an oral Will made by the plaintiff's deceased father, on 29-12-2020 at about 9 00 PM at his residence situate at Housing Colony Udhampur when the deceased declared his intention that after his death the plaintiff being the daughter of the deceased, would be entitled to inherit & succeed the above mentioned car absolutely & forever as owner & the deceased devised & bequeathed the above mentioned car to the plaintiff for her use & benefits and also entitled to sell the same. For permanent prohibitory injunction restraining the defendant from interfering in any manner in the entitlement of the plaintiff for any compensation

CORAM: Ms. MADHU SHARMA

JO Code: - JK00209

24.08.2023

J U D G M E N T

1. This judgment shall dispose of the above titled case. The instant suit was presented before this court on 21.10.2022.
2. The brief facts of the case are that the plaintiff is the daughter of the deceased Durga Dutt Sharma whereas defendant is the wife of the deceased namely Durga Dutt Sharma. It is further stated that plaintiff's father i.e. Durga Dutt Sharma died on 22-02-2021 & was survived by his daughter i.e. plaintiff and wife i.e. defendant. It is also stated that the plaintiff being the daughter of the above said deceased Durga Dutt Sharma is entitled to inherit & succeed all the rights in the Car (Alto K10) bearing Registration no. JK1486859 with respect to the deceased Durga Dutt Sharma. The deceased Durga Dutt Sharma was suffering from health problem and sensing his life very uncertain on 29-12-2020 at about 9 00 PM at his residence the deceased declared his intention that after his death the plaintiff would be entitled to inherit & succeed all the rights of the Car (Alto K10) bearing Registration no. JK1486859 with respect to the deceased Durga Dutt Sharma. The deceased consciously, in sound disposing mind and voluntarily in presence of the

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defendants & some other persons orally made a WILL by declaring his intention that after his death the plaintiff would be entitled to inherit & succeed all the rights in the Car (Alto K10) bearing Registration no. JK14B6859 with respect to the deceased Durga Dutt Sharma with such declaration devised and bequeathed the above said car in favour of the plaintiff. The plaintiff asked the defendant to admit her title and rights over the above said car on the basis of oral will made by Plaintiff's deceased father on 29-12-2020 but the defendant was firstly reluctant to admit and adopted a very dilly-dally attitude and the plaintiff understands that defendant's fairness in intention is crumbling, so to clear the mist which the defendant intends to gather around the title, right and interest of the plaintiff in the above said Car (Alto K10) bearing Registration no. JK14-B6859 left by the said deceased, it has become necessary to get declaration from the court that the plaintiff is entitled for all the rights of the aforesaid Car on the basis of an oral will made by the said deceased on 29-12-2020 at about 9.00 pm at his residence in presence of the defendant, if such declaration is not obtained from the court the civil rights and title of the plaintiff would be adversely affected. It is also stated that the plaintiff is in exclusive possession and occupation of the aforesaid Car and she has reasonable apprehension that the defendant will forcibly interfere in the said car. On 10-09-2022 the defendant has proclaimed that plaintiff has no right in aforesaid car & further threatened that she will dispossess the plaintiff forcibly though the defendant is having full knowledge about the said oral Will and intention of the deceased. If the defendant succeeds in her dishonest and illegal design of ousting the plaintiff from the said car, alienating the same or any part thereof or selling the said car, the plaintiff shall suffer irreparable loss, substantial injury, multiplicity of cases besides complications and loss to the plaintiff shall not be compensated in terms of money. The plaintiff has a prima facie case and balance of convenience also lies in her favour. The cause of action arose on 10-09-2022 at Udhampur when the defendant disputed the rights of the plaintiff which have accrued to the plaintiff on the basis of said oral Will and impliedly not honouring the WILL made by the deceased and hence the present suit. (5)

3. The defendant was served who then appeared in the Court and filed her written statement thereby admitting the claim of the plaintiff in toto and also stated that the defendant has no objection if the decree is passed in the favour of the plaintiff. The defendant has admitted the suit of the plaintiff in toto and has also submitted in his written statement that he has no objection, in case, the decree of declaration is passed as prayed for by the plaintiff in favour of the plaintiff.
4. Heard the parties and perused the material on record.
5. The instant suit has been filed for seeking declaration of plaintiff as owner of the abovementioned vehicle as the registered owner of the said vehicle namely, Durga Dutt Sharma has been died on 22.02.2021 who was the father of the plaintiff and the defendant is the wife of the deceased. Upon service, the counsel for the defendant filed written statement on behalf of the defendant, wherein the defendant has admitted the plaint in toto and has also averred in his written statements that they have no objection if the decree is passed in favour of the plaintiff.

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As a consequence of the admission of the plaint by the defendant in toto and expressed submission by the defendant that she has no objection if the suit is decreed in favour of the plaintiff, the court does not find parties at issue on any point. Since the pleadings of the plaintiff has been admitted wholly by the defendants in their written statement, the parties are not found to be at variance on any question of fact or of law. Therefore, there exists no question for determination requiring adjudication by the court in the instant suit.

7. It is imperative to reproduce the relevant provision of law on point.

Order-XII Rule 6 CPC. "Judgment on admission: - (1) Where admissions of act have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to such admissions.

(2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the Judgment was pronounced.

8. It is abundantly clear from the bare perusal of the provision reproduced supra that in absence of any question for determination between the parties, the court does not need to wait for one when the admission has been made by the party orally or in writing. The court can pronounce judgment with regard to such admissions at any stage of the suit.

9. Hence, in light of the above discussed facts of the case, admissions by the defendant, material on record and relevant legal provision of law, it has been established that the owner of the abovementioned vehicle i.e. the father of the plaintiff namely, Durga Dutt Sharma expired on 22.02.2021. Furthermore, the defendant has admitted the claim and pleadings of the plaintiff in toto and have also submitted that they have no objection if decree is passed in favour of the plaintiff and against the defendants. Accordingly, the case is taken up for final disposal in light of provisions of Order XII Rule 6 CPC discussed supra read with Order XV Rule 1 CPC wherein it is provided that where it appears to the court that the parties are not at any issue of fact or of law then the court may at once pronounce judgment at first hearing. As a matter of caution the matter was directed to be published in the daily newspaper. Accordingly, the notice was published in the newspaper "Kattu Satya" dated: 29.04.2023, thereby inviting objections from the public at large to be filed before this court well before time but in spite of the notice none from the public at large appeared before the court to resist the claim of the plaintiff

10. Keeping in view the abovementioned facts and legal provisions of CPC, the plaintiff being daughter of deceased is hereby declared as the legal heir of deceased Durga Dutt Sharma and is entitled to inherit the vehicle i.e. Car (ALTO K10) Bearing registration no. JK14B6859. A decree shall be drawn in accordance with this judgment. This judgment shall be binding upon the parties to the suit and shall have no effect upon the rights of any other person. Suit stands disposed of accordingly. File be consigned to records after its due compilation.

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Announced
24-08-2023

I/C MUNSIFF
UDHAMPUR

IN THE COURT OF MUNSIFF UDHAMPUR

DECREE SHEET

Present: - MADHU SHARMA

File No.	D.O.I.	Plaintiff	Defendants	In the Matter Of	D.O.D.
O. S. No. 109 of 2022	21-10-2022	Rashmi Sharma W/O Anjali Devi W/O Lt. Sh. Sandeep Kumar and D/O Durga Dutt Sharma R/O Durga Dutt Sharma R/O Housing Colony Udhampur. H.No, 282 Ward No.2 Adarsh Colony Udhampur.		Suit for declaration.	24-08-2023

Gist of Order: - The plaintiff being daughter of deceased is hereby declared as the legal heir of deceased Durga Dutt Sharma and is entitled to inherit the vehicle i.e. Car (ALTO K10) Bearing registration no. JK14B6859.

Plaintiff (s)	Defendant (s)
Cost: Nil	Cost: Nil

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