

(2025) 10 JH CK 1329

In the Jharkhand High Court

Case No : Miscellaneous Appeal No. 88 Of 2011

Ganga Dayal Pandit

APPELLANT

Vs

Smt. Asha Devi

RESPONDENT

Date of Decision : 30-10-2025

Acts Referred:

Indian Succession Act, 1925 — Section 371, 372, 384

Citation : (2025) 10 JH CK 1329

Hon'ble Judges : Gautam Kumar Choudhary, J

Bench : Single Bench

Advocate : Abhay Kr. Mishra, Krishna Prajapati, Adya Mishra, Rajesh Kumar, Amit Kumar, Manindra Kr. Sinha

Final Decision : Disposed Of

Judgement

Gautam Kumar Choudhary, J

Heard, learned counsel for the parties.

1. The instant Misc. Appeal has been preferred under Section 384 of the Indian Succession Act against the order dated 14.06.2010 passed by learned District Judge, Godda, in Succession Case No.08/09 whereby and whereunder, the petition for grant of succession certificate under Section 372 of the Indian Succession Act has been rejected.

2. The appellant filed petition with respect to issuance of Succession Certificate of legal debt and security in the name of Chandra Devi who was a Teacher in the Middle School regarding the property, as detailed in Schedule –A of the petition.

3. The property, as detailed in Schedule-A included the followings:-

(i) Munger Regional Gramin Bank- Account No.7201/47/01 amount of Rs.7106 (Seven thousand one hundred and six rupees).

(ii) The Munger- Jamui Central Co-operative Bank Limited, Branch Kharagupr

(Munger), Account No.3477, amount of Rs,89,338/-(Eighty Nine Thousand Three hundred and Thirty eight only rupees).

(iii) Punjab National Bank, Branch at Kharagpur (Munger) Ledger No.8, Account No.1969 of the amount of Rs.36,401.13 (Thirty six thousand four hundred one rupees and thirteen paise).

(iv) State Bank of India, Bazar Branch Munger Deposit at D.G.8311559 of the amount of Rs.1,71,900/- (One Lac seventy one thousand nine hundred) only as a deposit repayable at call.

(v) Bill form No.14/02-03 for withdrawal of G.I.C., GPS amounting to Rs.2,28,173/- [amended as per order dated 16.11.2009], amounting to Rs.1,15,843/- [vide order dated 16.11.2009], the death of Chandra Devi as per order of D.S.E. vide letter no.1545 dated 17.08.2002.

4. The learned court below vide impugned order dismissed the succession application on the ground that from the pleadings as well as from deposition of the witnesses, Chandra Devi died at Village-Singhpur, PS- Kharagpur, District-Munger and the debt and security were also within the jurisdiction of District-Munger and not at Godda.

5. It is submitted by learned counsel for the appellant that earlier succession certificate was granted in favour of the appellant with respect to the money deposited by Late Chandra Devi, Munger Area Gramin Bank only vide order dated 29.08.2002. Later on petitioner no.1 filed a succession revocation case No.1 of 2002 for revoking the succession certificate granted in favour of the appellant(s) on the ground that she was being treated as daughter by Late Chandra Devi since her childhood.

6. The said revocation case was disposed of, in terms of the compromise between both sides and that the petitioner no. 1/proforma respondent would be entitled to 40% of the entire deposits in the bank and petitioner no. 2/appellant namely Ganga Dayal Pandit would be entitled to get 60% of the deposit made by Late Chandra Devi.

7. However, the matter did come to an end there, and the petitioner filed a separate succession case for issuance of succession certificate with respect to 60% of the debts and security lying in the name of Chandra Devi before the District and Sessions Judge, Godda.

8. It is argued by learned counsel for the appellant that the second application was for all intent and purpose for modification of the earlier order passed in Succession Revocation Case No.01/02 so as to confine the claim of the appellant to the extent of 60% of the deposit made by Late Chandra Devi who made deposit in different bank accounts as detailed in Schedule-A of the suit.

9. However, learned court below has erred in dismissing the suit on the ground of territorial jurisdiction for the reason that the deceased was none other, but the

wife of the appellant and resident of State of Jharkhand within territorial jurisdiction of Godda. It is argued that the provision under Section 371 of the Indian Succession Act is wide enough to vest jurisdiction in a Court where the deceased ordinarily resides.

10. None has contested the instant Misc. Appeal on behalf of the contesting respondent(s). Although learned counsel for the Respondent No.4 had appeared on the last date, but he is not present in the Court today and this is an old appeal of the Year, 2011 and no gainful purpose will be served to further adjourn the matter awaiting appearance of Respondent No.4.

11. Having considered the submissions advanced on behalf of the appellant and perusing the materials on record, it is not in dispute that the appellant is resident of Godda and the deceased was his wife for whose account, the present case has been filed. Section 371 of the Indian Succession Act, 1925 reads as follows :-

"371. Court having jurisdiction to grant certificate.—The District Judge within whose jurisdiction the deceased ordinarily resided at the time of his death, or, if at that time he had no fixed place of residence, the District Judge, within whose jurisdiction any part of the property of the deceased may be found, may grant a certificate under this Part."

12. From the above provisions of law, it is apparent that the basis of jurisdiction of the Court is either the place where the property of the deceased is found, for which the certificate case has been filed, or at the place where the deceased resides at the time of death.

13. Since the appellant is the husband of the deceased, therefore, there cannot be any two views that her matrimonial home was at Godda. The dismissal of the suit on the ground of lack of territorial jurisdiction is not sustainable, when earlier succession certificate had already been granted with same debt and security.

14. Under the circumstances, the impugned order being not sustainable is set aside. Matter is remanded to the Learned trial Court to pass order afresh as per law, after hearing the parties.

The instant Misc. Appeal stands disposed of. Pending I.A., if any, also stands disposed of.