

(2012) 11 KAR CK 0098
In the Karnataka High Court
Case No : M.F.A. No. 6516 of 2009 (CPC)

Smt. P.D. Dhanalakshmi

APPELLANT

Vs

Smt. D.A. Swarooparani

RESPONDENT

Date of Decision : 15-11-2012

Acts Referred:

Citation : (2012) 11 KAR CK 0098

Hon'ble Judges : N. Ananda, J

Bench : Single Bench

Advocate : N. Nagaraja, for the Appellant; B.S. Krishna, Advocate for M/s. Jayaraj and Associates, for the Respondent

Final Decision : Dismissed

Judgement

N. Ananda

1. The petitioner had filed an application for revocation of succession certificate granted in favour of respondent in P & SC No. 57/1995 dated 19.03.2006 inter alia contending that petitioner is the second wife of Late. D.V. Anand Sarkar, who was employed in Dena Bank at Bangalore and their marriage was performed on 06.11.1989 at Mysore. The deceased Anand Sarkar had nominated petitioner to receive service his benefits. It was also alleged that, respondent knowing full well relationship between petitioner and deceased Anand Sarkar, had, not arrayed petitioner as party to P & SC 57/1995. Therefore, petitioner had sought for revocation of succession certificate granted in favour of respondent. The learned trial judge on appreciation of evidence has held that, evidence adduced by petitioner that marriage of Anand Sarkar and petitioner took place on 06.11.1989 at Mysore is not reliable. The learned trial judge has also held that deceased Anand Sarkar was an employee of Dena Bank at Bangalore. The records produced on behalf of respondent disclose that on 06.11.1989, the deceased Anand Sarkar was working in Dena Bank at Bangalore and it was impossible for him to go to Mysore to marry petitioner in a temple at Mysore.

2. The petitioner has relied on nomination said to have been made by deceased Anand Sarkar in favour of petitioner. The service benefits are payable to legal heirs of deceased. When the petitioner has failed to prove that she is the legal representative of deceased, on the basis of nomination, she cannot claim service benefits of deceased. The learned trial judge on appreciation of oral evidence of petitioner has held that oral evidence is highly unsatisfactory.

3. It is not in dispute and cannot be disputed that respondent is the daughter of Late. Anand Sarkar and she had received service benefits pursuant to succession certificate granted in P & SC 57/1995. The learned trial judge on proper appreciation of oral evidence has held that petitioner was working as maid servant in the house of Late. Anand Sarkar and she was taking care of respondent.

In the circumstances, the contention of petitioner that she had lived with deceased Anand Sarkar for long time, therefore, it shall be presumed that they were living as husband and wife, has been rightly rejected by the trial court.

4. The learned counsel for petitioner submits that, respondent had suppressed the status of petitioner and petitioner was not arrayed as a party to P & SC 57/1995, therefore, the succession certificate has to be revoked. The petitioner has failed to prove that she is the legally wedded wife of deceased Anand Sarkar and she is entitled to receive her share of service benefits. When petitioner has failed to prove her relationship with deceased Anand Sarkar, the omission of respondent to implead the petitioner as party to P & SC 57/1995 cannot be a ground to revoke the succession certificate granted in favour of respondent.

In view of the above discussion, I do not find any reasons to interfere with the impugned order. The appeal is accordingly dismissed.