

(2017) 05 MEG CK 0001
In the Meghalaya High Court
Case No : 4 of 2016

Smti Daiamond Langrin, Legal representative of Master
Bankitbok Langrin and Master Khrawkumar Langrin

APPELLANT

Vs

Smti. Thilina L. Marshillong

RESPONDENT

Date of Decision : 01-05-2017

Acts Referred:

Succession Act, 1925, Section 384 -
Appeal
Divorce Act, 1869, Section 10(1)(9) -
Grounds for dissolution of marriage.

Citation : (2017) 05 MEG CK 0001

Hon'ble Judges : Sr Sen

Bench : Single Bench

Advocate : P. Nongbri, M.F. Qureshi

Final Decision : Allowed

Judgement

1. Heard Mr. P. Nongbri, learned counsel for the appellant as well as Mr. M.F. Qureshi, learned counsel for the respondent.

2. The brief fact of the appellant's case in a nutshell is that:

This is an application under Section 384 of the Indian Succession Act 1925 read with Article 227 for setting aside and quashing the

impugned order dated 14.12.2016 passed by Learned Judge, District Council Court, Shillong in S/C Misc. Case No. 321 of 2016

granting succession certificate in favour of the respondent in respect of the debts and securities left behind by Late From L.

Marshillong.

The fact of the case in brief is that the Appellant is the wife of the deceased, Late From L. Marshillong. The marriage of the Appellant

and the deceased was solemnized by Rev. P. Imiong at the residence of the Appellant and the deceased at Domiasiat Village, Langrin

Syiemship, South West Khasi Hills District, Meghalaya on 18.12.1996. Out of the said wedlock, four issues were born namely

Master Bankitbok Langrin, Master Khrawkupar Langrin, Miss. Evapyntngen Langrin and Master Davidson Langrin. During the

lifetime, the deceased was working as Attendant A in the office of the Department of Atomic Energy, Atomic Minerals Directorate

for Exploration and Research, Government of India, at Nongmynsong, Shillong. The Appellant and Master Bankitbok Langrin,

Master Khrawkupar Langrin were named as nominees in the service book of late From L. Marshillong, which has not been changed

till date.

Thereafter, due to irreconcilable difference between the Appellant and her husband, Late From L. Marshillong filed a divorce petition

before the Learned Judge, District Council Court, Shillong for dissolution of the marriage under Section 10(1)(ix) of the Indian

Divorce Act, 1869. It is pertinent to mention herein that no notice was issued to the applicant in the aforesaid divorce case. Upon

hearing the counsel for the deceased, the Learned Judge, District Council Court, Shillong vide judgment dated 16.05.2014, was

pleased to dissolve the marriage. Thereafter Late From L. Marshillong remarried one Smti Porpildaris Thongni, but no issues were

born to them. Late From L. Marshillong expired on 01.11.2014 at Super Care Hospital, Shillong. After the death of Late From L.

Marshillong, the respondent, mother Late From L. Marshillong, on 25.03.2015 approached the Court of the Judge, District Council

Court, Shillong for grant of a succession certificate in respect of the debts and securities left behind by the deceased. The succession

application was endorsed to the Court of the Additional Judge, Additional District Council Court, Shillong for disposal being S/C

Misc. Case No. 1 of 2015. The respondent had only annexed a no objection from the second wife of the deceased, Smti Porpildaris

Thongni and the Appellant along with Master Bankitbok Langrin and Master Khrawkupar Langrin who are the nominees in the

service book of the deceased, Late From L. Marshillong were not arrayed as party.

On perusal of the application and the documents annexed, the Learned Additional Judge was pleased to issue summons to the

Director, Department of Atomic Energy, Nongmynsong, Shillong to produce the relevant papers relating to the pension of (L) From

L. Marshillong. On 01.05.2016, Assistant Personnel Officer had produced a copy of the Nomination for PF/DCRG/Group

Insurance Scheme dated 30.05.2003 of the deceased wherein the deceased had nominated the Appellants to receive the benefits.

The said Assistant Personnel Officer had informed the Learned Additional Judge that the pension of the deceased is yet to be

calculated since the Department of Atomic Energy, Nongmynsong, Shillong was still awaiting the formal application from the

Appellant.

Thereafter respondent on 03.06.2015 had made a representation before the Director, Department of Atomic Energy, Atomic

Minerals Directorate for Exploration and Research, Government of India, Shillong with regard to the estate left behind by the

deceased. The Assistant Personal Officer, AMD Complex, Begumpet, Hyderabad vide letter No. AMD-51(99)/2014-Pen dated

06.07.2015 was pleased to inform the respondent that the estate of the deceased cannot be made over to the respondent as she is

not his nominee. The second wife of the deceased, Smti Porpildaris Thongni also approached the Department of Atomic Energy,

Atomic Minerals Directorate for Exploration and Research, Government of India, Shillong for the release of the pension of the

deceased.

The respondent then preferred a petition No. 204/15 dated 16.10.2015 before the Learned Additional Judge to direct the Assistant

Personal Officer to provide the respondent the amount of death benefit, pension, etc, left behind by the deceased. The Learned

Additional Judge vide order dated 15.04.2016 was pleased to direct the Director of Atomic Energy, Government of India in Shillong

to calculate the pension, Provident Fund, DCRG and Group Insurance of the deceased and to furnish the details to the respondent so

as to bring on record the estate of the deceased before the Learned Additional Judge. The Learned Additional Judge in the said

order was also pleased to observe that the entitlement of the respondent to receive the benefits of the deceased will be decided after

hearing all the claimants.

The Regional Director, AMD Complex, Nongmynsong, Shillong vide letter No. AMD/NER/6976/Adm-2651 dated 30.05.2016

addressed to the Learned Additional Judge, had provided the settled pensionary benefits (death) of the deceased which is eligible to

be paid to the family members of the deceased as per nomination.

The respondent vide petition No. 224(A)/16 dated 13.06.2016 before the Learned Additional Judge prayed for amendment of the

succession application being S/C Misc. Case No. 1 of 2015 bringing on record all the debts and securities of the deceased

amounting to Rs. 8,08,376/- (Rupees eight lakhs eight thousand three hundred and seventy six) only. The Learned Additional Judge,

thereafter was pleased to issue notice dated 20.06.2016 to the Appellant for appearance on 07.07.2016. The said notice was duly

received by the Appellant. As the Appellant could not appear on the said date, the respondent by taking advantage of the absence of

the Appellant on the said date, prayed that the matter proceed exparte. The Learned Additional Judge, vide order dated 22.07.2016

was pleased to observe that the Appellant is not interested to contest the succession application and was further pleased to fix

12.08.2016 for evidence of the respondent.

The matter was again put up before the Learned Additional Judge, who vide order dated 28.09.2016 was pleased to observe that

since Master Bankitbok Langrin and Master Khrawkumar Langrin have been named as alternative nominees of the deceased, as such

it is necessary that notices be issued to them for appearance. Notices dated 27.09.2016 was issued to them.

On receipt of notices dated 27.09.2016, Master Bankitbok Langrin and Master Khrawkumar Langrin entered appearance through

the Appellant on 06.10.2016 as they were still minors. As Master Bankitbok Langrin and Master Khrawkumar Langrin were

interested to contest the succession application, the Learned Additional Court, was pleased to direct the counsel for the respondent

to amend the succession application by impleading the Appellant and the children.

Thereafter strangely, the respondent vide an application being petition No. 417/16 dated 24.10.2016 before the Learned Additional

Judge, prayed for withdrawal of the said succession application with a liberty to file afresh. On hearing the parties, and that there

being no objection from the Appellant, the Learned Additional Judge, vide order dated 24.10.2016 was pleased to allow the

application for withdrawal with a condition that the Appellant and Master Bankitbok Langrin and Master Khrawkupar Langrin be

impleaded in the fresh application to be filed by the respondent.

The respondent then surreptitiously filed a fresh succession application being petition No. 904/16 dated 25.11.2016 before the

Learned Judge, District Council Court, Shillong being S/C Misc. Case No. 321 of 2016 for issuance of a succession certificate in

respect of the debts and securities of the deceased without arraying the Appellant and Master Bankitbok Langrin and Master

Khrawkupar Langrin as parties. The respondent had suppressed the fact that she had earlier made an application before the Learned

Additional Judge, District Council Court, Shillong in respect of the debts and securities of the deceased which was later withdrawn.

The respondent had only annexed a no objection certificate of the second wife of the deceased. The Learned Judge, District Council

Court on being misled by the respondent, was pleased to fix 13.12.2016 for consideration of the application of the respondent.

Upon evidence adduced by the respondent and on hearing the counsel for the respondent, the Learned Judge, District Council Court,

Shillong vide order dated 14.12.2016 was pleased to allow the succession application of the respondent and a succession certificate

dated 15.12.2016 was granted to the respondent. The impugned order dated 14.12.2016 and succession certificate dated

15.12.2016 therefore are unsustainable in law and have no force in the eye of law. Hence the instant appeal"".

3. The learned counsel for the appellant submits that the respondent obtained a

succession certificate from the Judge, District Council Court,

Shillong and since the Civil Court was on vacation, the appellant could not file a revocation petition and contest the succession application issued

by the Judge, District Council Court, Shillong, so he may be allowed to file a petition for revocation and to contest the impugned succession order

dated 14.12.2016 passed in S/C Misc. Case No. 321 of 2016.

4. After hearing the submissions advanced by the learned counsel for the parties, the appellant is at liberty to move a revocation petition before the

Court concerned. In the meantime, the stay order passed earlier shall continue till the Judge, District Council Court, Shillong takes up the matter.

5. With this observation and direction the appeal is allowed and stands disposed of.