
(2017) 12 MEG CK 0001
In the Meghalaya High Court
Case No : 1 of 2016

Smti. Marcelia A. Sangma

APPELLANT

Vs

Smti. Bionecia Nongkhaw

RESPONDENT

Date of Decision : 08-12-2017

Acts Referred:

Citation : (2017) 12 MEG CK 0001

Hon'ble Judges : Sr Sen

Bench : Single Bench

Advocate : A.H. Hazarika, P. Nongbri

Judgement

1. Heard Mr. A.H. Hazarika, learned counsel for the appellant as well as Mr. P. Nongbri, learned counsel for the respondent. 2
2. .The brief fact of the appellant's case in a nutshell is that:
 1. The Appellant is the legally married wife of Late Joyraj M. Sangma and out of their wedlock 3(Three) daughters were born to them.
 2. That the Appellant is the nominee in the Service Book of the deceased who had been working as Bank Assistant in the State Bank of India in various Branches throughout the State of Meghalaya and while he was in active service expired on 23-09-2010 after prolonged illness, leaving behind the Appellant and 3 daughters in destitute and during his illness, the appellant had taken utmost care and borne all the Medical expenditure, approximately Rs. 6,00,000/- (Rupees Six Lakh) and the last rites of the Deceased was performed by the Appellant.
 3. That after the untimely demise of her husband, the Appellant had obtained

Succession Certificate from the Court of Judge, Garo

Hills District Council Court, Tura, dated 01-11-2010, meanwhile the respondent approached the Learned Trial Court below by filing

an Application under Section 383 of the Indian Succession Act, 1925 for revocation of the Succession Certificate and the Learned

Court below without taking proper evidence, passed an Impugned Order dated 24-04-2013 cancelling/revoking the Succession

Certificate and thereafter the Appellant filed an Appeal before the Hon"ble High Court which was registered vide F.A.O. No. 1 of

2014 and after hearing the parties, the Hon"ble High Court vide Judgment and Order (Oral) dated 17-09-2014 was pleased to set

aside and quashed the Impugned Order dated 24-04-2013 and remand back to the Trial Court for De-novo trial. Thereafter both

the parties appeared before the Learned Trial Court below at Tura and had submitted a joint Application informing the Court that

they have come to a compromise settlement outside the Court and accordingly the Judge, Garo Hills District Council Court, Tura

passed an Order dated 02-09-2015 in Succession Case No. 61/2010 on the principle that as both the parties agreed to apportion

the debts and securities of Late Joyraj M. Sangma at 50:50 percent between the parties and also stated in the order that:

Accordingly Succession Certificate be issued in the name of Bionecia Nongkhaw the Petitioner and in the name of Tracy A.

Sangma, D/o Marcellia A. Sangma.

The concern Bank is hereby directed to release the said debts and securities to the concern parties.

4. That it is also stated that the Appellant after obtaining the Succession Certificate submitted the same to the Bank in the month of

September, 2015 and when the Appellant approached the State Bank of India at Tura recently for collection of debts and securities,

however the Branch Manager, SBI Chandmari, Tura showed another Succession Certificate submitted by the Respondent from the

Court of Judge, Khasi Hills District Council Court, Shillong dated 01-12-2015 in S/ c Misc. Case No. 291/2015 without arraying the

Appellant being a necessary party. Hence this First Appeal against the Order.

5. That the Appellant filed this instant Appeal, praying for setting aside and quashed the impugned Order dated 15-12-2015.

3. During the proceeding, both the appellant and the respondent came to an amicable settlement and appeared before the Court praying to dispose

of the matter as per their amicable settlement. Accordingly, the Judge, District Council Court, Khasi Hills, Shillong was directed to record the

statement of the appellant and the respondent by himself or by any other Magistrate.

4. In compliance with the order dated 04.12.2017 passed by this Court, the learned Additional Judge, Additional District Council Court, Shillong

recorded the statement on 07.12.2017 and place the record before this Court. The statement of the appellant, Smti. Marcelia A. Sangma as well

as the respondent, Smti Bionecia Nongkhaw referred above are reproduced herein below for ready reference:

IN THE COURT OF THE ADDITIONAL JUDGE

ADDITIONAL DISTRICT COUNCIL COURT, SHILLONG

S/C Misc. Appeal/Case No. 291 of 2015

PRESENT:- Smti S.B. Laithma

Deposition of Witness No. P.W. 2 for the Petitioner/2nd Party taken on oath or solemn affirmation on the 7th day of Dec 2017

My name is Smti. Marcelia A. Sangma son/daughter/wife of (L) Joyraj M. Sangma by caste Garo. My age is 55 years, I reside at

Chitoktak Tura Village of _____ Syiemship/Sirdarship/Lyngdohship, Police Station Sordar Tura in the Garo Hills District. My

occupation is Housewife.

On Oath

I was staying with (L) Joyraj M. Sangma as husband and wife in the year 1979 and out of the wedlock three children were born.

There is a joint Compromise Deed executed by Smti. Bionecia Nongkhaw and Smti. Marcelia A. Sangma dated 14th Nov"2017 in

which both of us were the signatories and both of us mutually agreed to share the debts and securities and family pension of (L)

Joyraj M. Sangma shall be shared at the rate of 55% and 45% respectively.

I am also made clear that the first party would share the debts and securities

and family pension of the said deceased should be shared 55% and I will share 45% respectively.

The joint Compromise Deed dated 14.11.2017 executed by both the parties was with our free consent and mutual understanding.

R.O.A.C

Sd/-

7/12/17

Addl. Judge"".

IN THE COURT OF THE ADDITIONAL JUDGE

ADDITONAL DISTRICT COUNCIL COURT, SHILLONG

S/C Misc. Appeal/Case No. 291 of 2015

PRESENT:- Smti S.B. Laithma

Deposition of Witness No. P.W. 1 for the 1st Party taken on oath or solemn affirmation on the 7th day of Dec 2017

My name is Smti. Bionecia Nongkhlaw son/daughter/wife of (L) Joyraj M. Sangma by caste Khasi. My age is 87 years, I reside at

Laban Village of Myllem Syiemship/Sirdarship/Lyngdohship, Police Station Laban in the Khasi Hills District. My occupation is

Housewife.

On Oath

I am the first wife of (L) Joyraj M. Sangma who expired on 23/9/2010.

I have entered into the said joint Compromise Deed dated 14/Nov/2017 out of my free will and understanding.

It is agreed that the debts and securities and family pension of (L) Shri. Joyraj M. Sangma will be shared at a ratio 55% and 45%.

That I will receive 55% of the family pension and other debts and securities and Smti. Marcelia M. Sangma will receive 45% of the

family pension and debts and securities from now onwards.

R.O.A.C

Sd/-

7/12/17

Addl. Judge"".

5. On bare perusal of the statement referred above, it appears that the respondent, Smti. Bionecia Nongkhalw will receive 55% of the debts and securities and family pension and the appellant, Smti Marcelia M. Sangma will receive 45% of the debts and securities and family pension as agreed by them.

6. Since the matter has been amicably settled and they have given their statement on oath, the matter stands disposed of with a direction to the concerned authority to give the pension and other benefits to both the appellant and the respondent as agreed by them. The original copy of the statement of the appellant and the respondent should be kept in the Court's file and to return the Lower Court case record to the concerned Court along with a copy of this Judgment and Order.

7. Accordingly, the matter stands disposed of.