



**IN THE GAUHATI HIGH COURT**  
**HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH,**

**Intest. Cas/ 2/2025**

1. Sonamukhi Basfore (aged 48 years)  
W/o Late Madan Basfore,
  
2. Arjun Basfore (age 34 years)  
S/O Late Madan Basfore  
Both are resident of House No. S-2  
GMC New Colony  
Ambari Fatasil  
P.S. Ambari Fatasil  
Guwahati 25  
District Kamrup (M) Assam

**.....Appellants**

***-Versus-***

1. Rekha Basfore  
W/O Late Madan Basfore,
  
2. Rajesh Basfore
  
3. Puja Basfore  
Both are Son/Daughter of late Madan Basfore  
Resident of Rly Quater No. 215/A  
Nambari Maligaon  
Guwahati 11, PS Jalukbari  
Kamrup M Assam 781029

**.....Respondents**

**BEFORE  
HON'BLE MR. JUSTICE MRIDUL KUMAR KALITA**

**Advocate for appellants** : **Mr. A. U. Choudhury,  
Advocate**

**Advocate for respondents** : **Ms. L. Das, Advocate**

**Date on which judgment is reserved** : **N/A**

**Date of pronouncement of judgment** : **07.05.2026**

**Whether the pronouncement is of the Operative part of the judgment** : **N/A**

**Whether the full judgment has been Pronounced** : **Yes**

**Judgment & Order (ORAL)**

- 1.** Heard Mr. A. U. Choudhury, the learned counsel for the appellants. Also heard Ms. L. Das, the learned counsel for the respondents.
- 2.** This appeal has been filed by the present appellants, under Section 384 of the Indian Succession Act, 1925, impugning the judgment and order dated 04.10.2024 passed by the Court of the learned District Judge, Kamrup (M) at Guwahati, in Succession Case No. 134/2017, whereby the application filed by the present appellants under Section 372 of the Indian Succession Act, 1925, for grant of succession certificate to the present appellants in respect of the debts and securities of late Madan Basfore was partially allowed and the appellant No. 1 Sonamukhi Basfore was not found to be entitled to inherit the debts and securities left behind by late Madan Basfore.

3. By the impugned judgment, it was held that the present respondent No. 1 Smt. Rekha Basfore and her children, namely, Rajesh Basfore and Puja Basfore, along with her mother-in-law, namely, Kaushalya Basfore, were entitled to inherit 1/5<sup>th</sup> of shares of the debts and securities left behind by late Madan Basfore. The appellant No. 2, Arjun Basfore, was also found entitled to receive 1/5<sup>th</sup> of shares of the debts and securities left behind by his father, late Madan Basfore.
4. The facts relevant for consideration of the instant appeal, in brief, are that the present appellants, namely, Sonamukhi Baswar and her son, namely, Arjun Baswar, filed an application under Section 372 of the Indian Succession Act, 1925, claiming the succession certificate in respect of the debts and securities left behind by late Madan Basfore, who had expired on 21.09.2016 at Guwahati.
5. In the aforesaid petition filed by the present appellants before the Trial Court, i.e., the Court of learned District Judge, Kamrup(M) at Guwahati, it was contended that late Madan Basfore was the husband of the appellant No. 1 and father of appellant No. 2. He was working as J/Peon in FA & CAO. Office, in NF Railway Maligaon.
6. It was contended by the present appellants that the appellant No. 1 was first and legally married wife of late Madan Basfore and it was further contended that she was married to late Madan Basfore in the year 1990. However, no specific date of marriage was stated in the aforesaid application.
7. It was further contended in the said petition that late Madan Basfore married for the second time, the respondent No.1, namely, Rekha Basfore and out of the said wedlock, one son and one

daughter, namely, Rajesh Basfore and Puja Basfore were born. It was also contended that the Late Madan Basfore died intestate and, therefore, there was no impediment in granting succession certificate to the appellants.

- 8.** The present respondents contested the claim of the appellants in the aforesaid case, (Succession Case No. 134/2017), by filing written objection, wherein, it was contended by the present respondent No. 1 that she was married to Madan Basfore on 19.01.1990 and the respondent Nos. 2 and 3 were born out of the said wedlock.
- 9.** It was also contended that the present appellant No. 1 fraudulently got married to late Madan Basfore on 27.10.1990, knowing fully well that at that time he was having a legally married wife, i.e., the respondent No. 1.
- 10.** It was also contended that the marriage of the respondent No. 1 with late Madan Basfore was also registered by the Commissioner of Haliashar Municipality and a certificate to that effect was also issued to her on 24.01.1990. Accordingly, it was contended that the appellant No. 1 was not entitled to get any succession certificate in respect of late Madan Basfore.
- 11.** On the basis of the pleadings of the respective parties, the Court of learned District Judge, Kamrup (M) at Guwahati framed the following issues:
  - i.** Whether the applicant Sonamukhi Basfore is the legally married wife of deceased Madan Basfore?
  - ii.** If not, whether Smt. Rekha Basfore is the first and legally married wife of Late Madan Basfore?

- iii. Whether the applicant or any of them will inherit the debts and securities, left behind by the deceased Madan Basfore?
  - iv. Whether the opposite party will succeed to any share in the debts and securities, left behind by deceased Madan Basfore?
  - v. To what relief/ reliefs the parties are entitled?
- 12.** In support of their contentions, the present appellants examined three witnesses before the Trial Court, namely, the appellant No. 1 as PW-1, Gowara Basfore as PW-2, and Lalaji Basfore as PW-3, whereas the respondents adduced evidence of Rekha Basfore, Chandeshwar Basfore, Rajesh Basfore, Kaushalya Basfore and Manik Chandra Das.
- 13.** However, by the judgment and order dated 04.10.2024, the Court of learned District Judge, Kamrup (M) partially allowed the application filed by the present appellants under Section 372 of the Indian Succession Act, 1925, in the manner as already described in the foregoing paragraphs of this judgment. The aforesaid judgment has been impugned in this appeal.
- 14.** Mr. A. U. Choudhury, the learned counsel for the appellants has submitted that the Trial Court had erred in passing the impugned judgment without taking into consideration the fact that in the application filed by the present respondent under Section 166 of the Motor Vehicles Act, 1988 before the Motor Accident Claims Tribunal, Kamrup in MAC Case No.2635/2016, claiming compensation for death of late Madan Basfore, it was stated in Column 20 of the said application that when the present respondent, namely, Rekha Basfore was married to late Madan Basfore in the year 1990, she

was minor. He also submits that the marriage of Rekha Basfore with late Madan Basfore before his marriage to Sonamukhi Basfore becomes suspicious as it is mentioned in the said column that after Sonamukhi Basfore left Madan Basfore, he married Rekha Basfore again and continued his conjugal life.

- 15.** The learned counsel for the appellants submits that had Rekha Basfore had married Madan Basfore before his marriage to Sonamukhi Basfore, there was no necessity of him marrying Rekha Basfore again after Sonamukhi Basfore left him. He submits that the application filed by the respondents before the Motor Accident Claims Tribunal under Section 166 of the Motor Vehicles Act, 1988 was not at all taken into consideration by the Trial Court, while coming to the finding that Sonamukhi Basfore is the second wife of Madan Basfore and as such she was not entitled to get the succession certificate in respect of debts and securities left behind by late Madan Basfore.
- 16.** The learned counsel for the appellants further submits that the Trial Court also did not take into consideration the fact that from the testimony of DW-5, during his cross-examination, it became clear that DW-5 was not authorized to issue any marriage certificate, therefore, the Trial Court erred in relying on the said certificate for arriving at the conclusion that Rekha Basfore was married to late Madan Basfore on 19.01.1990.
- 17.** On the other hand, Ms. L. Das, the learned counsel for the respondent has submitted that the Trial Court after taking into consideration the evidence on record has given a just finding. It has also taken into consideration that the marriage of Sonamukhi

Basfore is not recognized under law and, therefore, she is not entitled to succeed to the properties left behind by late Madan Basfore. However, her son Arjun Basfore even being a legitimate son, is entitled to inherit the property and, therefore, the son of the appellant Arjun Basfore was given his due share ( $\frac{1}{5}$  share in respect of debts and securities left behind by Madan Basfore). She submits that as the Trial Court has taken into consideration all the evidence before it and given a just finding and it suffers from no infirmity, no interference should be made by this Court in exercise of its appellate jurisdiction in the Trial Court's order.

- 18.** She submits that the Trial Court was correct in holding that since the plea of minority of Rekha Basfore on the date of her marriage i.e., on 19.01.1990 is raised by the present appellant, it was incumbent on her to relieve the burden of proof that Rekha Basfore was minor on the date of her marriage. However, the present appellant failed to relieve that burden. She further submits that even for the sake of argument, it is assumed that the respondent Rekha Basfore was minor on the date of her marriage i.e., on 19.01.1990, still it would not affect the validity of her marriage with late Madan Basfore as marriage with a minor is only a voidable marriage, which can be declared void only at the instance of minor party. She submits that as the marriage between Rekha Basfore was never declared as invalid, it remains a valid marriage. She submits that even the mother of the deceased Madan Basfore, namely, Smt. Kausalaya Basfore being adduced evidence in favour of the present respondent, wherein, she has categorically deposed

that Madan Basfore married to Rekha Basfore on 19.01.1990 in her presence at Village Garipa, West Bengal.

- 19.** She further submits that though, the present appellant No. 1 has claimed to be married to late Madan Basfore before his marriage to Rekha Basfore, however, even the date of her marriage could not be proved by the present appellant and there is no evidence as regards on which date she was married with the deceased Madan Basfore. She therefore, submits that the Trial Court was correct in holding that the present appellant has failed to prove that late Madan Basfore married to Sonamukhi Basfore prior to marry Rekha Basfore. She submits that this appeal lacks merit and deserves to be dismissed.
- 20.** I have considered the submissions made by the learned counsel for both sides and have gone through the materials available on record.
- 21.** It appears that by the impugned judgment the Trial Court has issued succession certificate in respect of debts and securities left behind by late Madan Basfore in favour of his mother Smt. Kausalaya Basfore, the present respondent Rekha Basfore, son of the present respondent Rajesh Basfore, daughter of the present respondent Puja Basfore and son of the present appellant Arjun Basfore giving  $\frac{1}{5}$  share to each of them in respect of debts and securities left behind by late Madan Basfore.
- 22.** It also appears that the Trial Court held that the present appellant failed to prove the fact that she was married prior to the marriage of the respondent Rekha Basfore and deceased Madan Basfore on 19.01.1990. It appears that admittedly, the present appellant has failed to adduce any evidence as regards the date of her marriage

with Madan Basfore whereas, the evidence on record including that of DW-5 the Municipal Commissioner, Halisahar shows that Rekha Basfore was married to Madan Basfore on 19.01.1990.

- 23.** Even if the entry made in Column No.20 of the application under Section 166 of the Motor Vehicle Act, 1988 filed by the present respondent along with her son and daughter claiming compensation for death of her husband before the Motor Accident Claims Tribunal, Kamrup is taken into consideration and it is assumed that she was minor in the year 1990, still in the absence of any decree declaring the said marriage as void, the validity of marriage of the respondent and late Madan Basfore in the year 1990 is not affected merely because of the fact of her minority. Moreover, it also appears that the present appellant has failed to adduce any evidence to show as to on which date she was married to late Madan Basfore. Thus, this Court is of the considered view that the Trial Court has rightly arrived at the conclusion that the present appellant No.1 has failed to prove that her marriage with Madan Basfore was prior to the date of marriage of late Madan Basfore with Rekha Basfore. As such, this Court finds no fault in the conclusion arrived at by the Trial Court that the present appellant failed to relieve the burden of proving the aforesaid fact.
- 24.** In view of the discussion made hereinabove and reasons stated in the foregoing paragraphs, this Court is of the considered opinion that the Trial Court has rightly granted succession certificate to the mother of the deceased Madan Basfore along with the respondent as well as her children and son of the present appellant in equal

share of  $\frac{1}{5}$  each and as such, the impugned judgment needs no interference by this Court in this appeal.

- 25.** This appeal is, accordingly, found to be devoid of any merit and dismissed.
- 26.** Send back the trial court records along with a copy of this judgment to the trial court.

**JUDGE**

Comparing Assistant