



2026:CGHC:7947

HIGH COURT OF CHHATTISGARH AT BILASPUR

Judgment reserved on 05-02-2026

Judgment delivered on 13-02-2026

SA No. 55 of 2012

Kamla Bai W/o Gulab Aged About 28 Years Caste Vishwakarma, R/o Village Girjapur, Post Patna, Tahsil Baikuthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

... Appellant

versus

1 - Smt. Fulbasiya @ Myajo Bai W/o Late Ranjit Aged About 45 Years Occupation Housewife, R/o Village Tengni, Post Patna, P.S. And Tahsil Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

2 - Mohna @ Bhola (Died) Through LR.

2.1 - (A). Munnish Vishwakarma W/o Late Mohna @ Bhola Aged About 35 Years R/o Village Tengni, Post Patna, P.S. And Tahsil Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

2.2 - (B). Tara Vishwakarma D/o Late Mohna @ Bhola Aged About 22 Years R/o Village Tengni, Post Patna, P.S. And Tahsil Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh



2.3 - (C). Sanjay S/o Late Mohna @ Bhola Aged About 18 Years R/o Village Tengni, Post Patna, P.S. And Tahsil Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

2.4 - (D). Ajay S/o Late Mohna @ Bhola Aged About 12 Years Minor Through Guardian Mother Respondent No. 2 A , R/o Village Tengni, Post Patna, P.S. And Tahsil Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

2.5 - (E). Chanda Vishwakarma D/o Late Mohna @ Bhola Aged About 9 Years Minor Through Guardian Mother Respondent No. 2 A , R/o Village Tengni, Post Patna, P.S. And Tahsil Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

3 - Suman Bai D/o Late Ranjit Aged About 23 Years R/o Village Tengni, Post Patna, P.S. And Tahsil Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

4 - Munni Bai D/o Late Ranjit Aged About 25 Years R/o Village Tengni, Post Patna, P.S. And Tahsil Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

5 - South Eastern Coalfields Limited Through The General Manager, Baikunthpur, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

6 - Sub Area Manager S.E.C.L. Sub Area Jhilmili (Pandopara), Post Patna, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

7 - Regional Commissioner Coalfields Provident Fund Gupteshwar, Jabalpur (M.P.), District : Jabalpur, Madhya Pradesh



8 - Bhartiya Jivan Bima Nigam Through The Branch Manager, Manendragarh, District Koriya Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

9 - The Oriental Insurance Company Limited Through The Branch Manager, Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

...Respondents

For Appellant	:Mr. Ashok Kumar Shukla, Advocate
For Respondents No.1 to 4	:Mr. Pavas Sharma, Advocate on behalf of Mr. Shakti Raj Sinha, Advocate
For Respondents No.5 and 6	:Mr. Vinod Deshmukh, Advocate with Mr. Vaibhav Kartike, Advocate
For Respondent No.8	:Mr. Swayam Tehenguria, Advocate

Hon'ble Shri Bibhu Datta Guru, J

CAV Judgment

1. By the present appeal under Section 100 of the Code of Civil Procedure, 1908, the appellant/defendant No.6 challenges the impugned judgment and decree dated 27.09.2011 passed by the learned First Additional District Judge, Manendragarh, District Koriya, Chhattisgarh, in Civil Appeal No. 9A/2011 (*Smt. Fulbasiya & Ors. v. SECL & Ors.*), arising out of the judgment and decree dated 04.07.2011 passed by the learned First Civil Judge,



Class-I, Baikunthpur, District Koriya, Chhattisgarh, in Civil Suit No. 85-A/2011 (*Smt. Fulbasiya & Ors. v. SECL & Ors.*).

2. For the sake of convenience, the parties shall be referred to as per their status before the learned Trial Court.
3. The instant appeal was admitted by this Court on 21.06.2021 on the following substantial question of law :

“(i) Whether the First Appellate Court is justified in holding that the appellant/defendant No.6 is not the legally wedded wife of the deceased Ranjit, who died on 16.12.2000 by recording a finding perverse to the record?”

(ii) Whether the First Appellate Court is justified in holding that the deceased Ranjit has executed any Will in favour of defendant No.6 Kamla Bai and has not executed a Will in favour of the plaintiff No.1 Fulbasiya by recording a finding perverse to the record?

4. (a) The plaintiffs instituted a suit for partition, declaration of title and permanent injunction, pleading, *inter alia*, that they are Hindus belonging to the Lohar caste and are governed by Hindu Law. It was pleaded that Plaintiff No.1 was married, according to the customs and traditions of the caste, about 30 years prior to the



institution of the suit, to Late Ranjit. After the marriage, Plaintiff No.1 lived with her husband in his house and out of the said wedlock Plaintiffs No. 2 to 4 were born. Ranjit died on 16.12.2000 in a motor accident that occurred while he was working at the establishment of Defendant No.2. At the time of his death, Ranjit was working as a Pump Khalasi in SECL Field Area, Jhilmili (Pandopara). He was initially appointed by Defendant No.1 on 13.10.1977 as a First-Class Labourer. Thereafter, he was posted at Bhatgaon Colliery under the Baikunthpur Area and, in the year 1980, was transferred from Bhatgaon to Baikunthpur Area and subsequently from Gharacha to Jhilmili (Pandopara), where he continued to serve under the control of Defendant No.2 till his death.

(b) It was further pleaded that after the death of Ranjit, his legal heirs became entitled to receive gratuity, life cover amount and compassionate appointment benefits, as also the amount payable under the Coal Mines Provident Fund (CMPF) from Defendant No.3. It was also pleaded that Ranjit had taken life insurance policies bearing Nos. 378127971, 381004886 and 380384151 from Defendant No.4 and had also obtained group personal accident insurance from Defendant No.5, the premium whereof was deducted from his salary by Defendant No.1. According to the



plaintiffs, Plaintiffs No.1 to 4 are the sole legal heirs of Late Ranjit and Defendant No.6 has no legal relationship with the deceased. It was specifically pleaded that Ranjit had not executed any Will in favour of Defendant No.6, Kamla Bai, during his lifetime and that the alleged Will dated 24.11.2000 produced by Defendant No.6 was never executed by Ranjit.

5. In the said civil suit, Defendants No.1 and 2 filed their written statement denying the plaint averments. They pleaded that as per Form B-1 submitted by Ranjit in the year 1997, the name of his wife Kamla Bai, Defendant No.6, stood recorded in the service records and that she was declared as his nominee for the payable service benefits. Accordingly, the name of Defendant No.6 has been continuously recorded in the official service records as the wife of Late Ranjit.
6. Defendant No.3, in its written statement, stated that the deceased Ranjit was employed in the Bhatgaon Area, Jhilmili Sub-Area of SECL and was a member of the Coal Mines Provident Fund Scheme bearing Account No. A/4/73/1647, in which an amount of ₹2,02,294/- stood deposited up to March, 2002. It was further stated that for the said CMPF account, Ranjit had nominated Smt. Jhalwariya as the nominee and that no information regarding the



dependent family members of the deceased was available with them.

7. Defendant No.4 stated that Ranjit had taken Policy Nos. 380984151, 381004886 and 378127971, in which the name of his wife, Smt. Kamla Bai, was recorded as the nominee. It was further stated that payment under the said policies has already been made to the nominee, Kamla Bai, except for Policy No. 378127971, the payment whereof is still pending.
8. Defendant No.5 denied the plaint averments on the ground of lack of knowledge and submitted that in the event any liability is found against it, the same shall be discharged strictly in accordance with the directions issued by the Court.
9. (i) The defendant No.6 submitted her written statement and denied the plaint averments. She denied that plaintiff No. 1 was married to Ranjit according to caste customs approximately 30 years ago. It is also denied that after the marriage, Plaintiff No. 1 lived with her husband in his house. In fact, defendant No. 6, Kamla Bai, is the legally wedded wife of Late Ranjit, and after the marriage, Kamla Bai resided with Late Ranjit in his house and is still residing in the residential house of Late Ranjit to this day. It is further stated that the children born out of the alleged relationship,



namely Plaintiff Nos. 2 to 4, never lived with Late Ranjit, nor did Ranjit maintain any relationship with them. As far as Kamla Bai is concerned, she is the legally wedded wife of Ranjit and is the sole legal heir of Late Ranjit. She stated that Ranjit had a mistress/woman named Myajo, from whom illicit children Suman, Munni, and Mohna were born. Myajo has passed away. The children born from Myajo did not live with Ranjit and Ranjit did not maintain any relationship with them thereafter.

(ii) The defendant No.6 also filed counter-claim and the following reliefs were prayed for against the plaintiffs:

(a) It be declared that Kamla Bai is the sole legally wedded wife of the deceased Ranjit and, being the beneficiary under the Will, is the sole heir entitled to receive all amounts, benefits, and dues accruing after the death of the deceased.

(b) It be declared that Kamla Bai is the lawful legal heir of the deceased Ranjit and is entitled to compassionate appointment in place of the deceased.

(c) A permanent injunction be issued against Defendant Nos. 1 to 5 restraining them from disbursing or granting any amount, monetary dues, or other benefits payable to the



heirs of Late Ranjit to anyone other than the counter-claimant Kamla Bai.

(d) Any other relief(s) which this Hon'ble Court may deem fit and proper be granted in favour of the applicant.

10. The learned Trial Court, after framing the issues and upon due consideration of the evidence adduced by both the parties as well as the material available on record, dismissed the suit filed by the plaintiffs and allowed the counter-claim preferred by Defendant No.6, holding that the testimony of the defendant herself and of the witnesses examined on her behalf, namely Shivnarayan and Neelkanth, had duly corroborated her pleadings. The learned Trial Court further held that the documentary evidence adduced by the defendant conclusively established that Late Ranjit had consistently described Defendant No.6 as his legally wedded wife and had duly recorded her as the nominee in the official records maintained by Defendant Nos.1 to 5.
11. Aggrieved by the said judgment and decree, the plaintiffs preferred a Civil Appeal, which came to be allowed by the learned First Appellate Court by the impugned judgment and decree, reversing the judgment and decree passed by the learned Trial Court. Hence,



the present second appeal has been preferred by the appellant/defendant No.6.

12. Learned counsel for the appellant/defendant No.6, Kamla Bai, submits that the learned First Appellate Court failed to appreciate that the Will executed in favour of the appellant was duly proved in accordance with law and that the evidence adduced in support thereof remained unrebutted. It is further submitted that the appellant is the legally wedded wife of Late Ranjit and that her name stands duly recorded as such in the service records of the deceased. Learned counsel contends that Plaintiff No.1 never resided with Late Ranjit after the alleged marriage and that, in fact, Kamla Bai was the lawful wife of Late Ranjit, who lived with him in his residential house and continues to reside therein even after his demise. It is further submitted that the appellant, being the legally wedded wife, is the sole legal heir of Late Ranjit and is entitled to all rights and benefits arising from such status. Learned counsel would submit that the plaintiff herself averred in the plaint that she is Fulbasiya @ Myajo Bai. Whereas Fulbasiya & Myajo both were two different ladies. Even the maintenance application under Section 125 of the Cr.P.C was filed by the Myajo Bai not by Fulbasiya. According to learned counsel, the learned First Appellate Court failed to consider the clinching documentary



evidence adduced by the appellant and passed the impugned judgment ignoring the material available on record. In support of his submissions, learned counsel placed reliance upon the judgment of the Supreme Court in *Kattukandi Edathil Krishnan & Anr. v. Kattukandi Edathil Valsan & Ors.*, reported in (2022) 16 SCC 71.

13. Per contra, learned counsel for the plaintiffs submits that it has not been established that the deceased Late Ranjit executed any valid and legally enforceable Will in favour of Kamla Bai. It is further submitted that it has also not been proved that Kamla Bai was ever the legally wedded wife of Late Ranjit. Learned counsel contends that the evidence on record clearly establishes that Plaintiff No.1, Fulbasiya @ Myajo Bai, was the lawful wife of Late Ranjit and that Plaintiffs No.2 to 4 are his legitimate children. Learned counsel would submit that in the maintenance application filed by the Myajo, Ranjit has not disputed or denied about the identity of Fulbasiya @ Myajo and also not denied the relationship with Fulbasiya @ Myajo and him as husband & wife. Consequently, it is submitted that the plaintiffs alone are the legal heirs of Late Ranjit and are entitled to all rights, benefits and succession arising from his estate, and that the claim set up by Kamla Bai is devoid of merit. He would submit that the learned first appellate Court



after considering the entire facts and circumstances of the case in its true perspective has rightly passed the impugned judgment and decree.

14. I have heard learned counsel for the parties at length and perused the record with utmost circumspection.
15. In the present case, Plaintiff No.1, Fulbasiya @ Myajo Bai, has deposed that she was married to late Ranjit about 35 years ago and that the marriage was solemnized in accordance with customary rites. After marriage, she resided with Ranjit at village Tengni, and out of their wedlock, three children, namely Mohna alias Bholi, Munni Bai, and Suman Bai, were born. She further stated that about 4–5 years after the marriage, Ranjit secured employment at S.E.C.L., Bhatgaon Colliery, whereafter he resided at Bhatgaon and subsequently at Charcha Colliery upon transfer, while she continued to reside at village Tengni. During this period, Ranjit developed an illicit relationship with a woman named Raimun from Deonagar and subjected the plaintiff No.1 to harassment, compelling her to file an application for maintenance before the Court at Surajpur. After due adjudication, maintenance was granted in her favour. Plaintiff No.1 has proved the maintenance order as Ex.P-1, her application as Ex.P-2, and the reply submitted by Ranjit as Ex.P-3.



16. In the maintenance application filed by Myajo, Ranjit has not disputed or denied about the identity of Fulbasiya @ Myajo and also not denied the relationship with Fulbasiya @ Myajo and him as husband & wife. In para 2 of 125 application the plaintiff categorically averred that after marriage with Ranjit she started living with him happily and cozily and out of said wedlock two daughters and one son were born. The said averment of the plaintiff has duly been admitted by Ranjit in his reply filed to 125 application.
17. Plaintiff No.1 further deposed that Kamla Bai had no lawful marital relationship with late Ranjit and that during the period when Ranjit was residing alone, he developed an illicit relationship with her. She stated that Kamla Bai, taking advantage of the situation, got her name entered as nominee in the service records of the deceased. She categorically denied execution of any Will in favour of Kamla Bai and alleged the Will relied upon by her to be forged.
18. Dharmajit (PW-2), brother of the deceased Ranjit, deposed that his brother was married about 35 years ago to Myajo Bai alias Fulbasiya of village Basdei in accordance with customary rites and traditions. He stated that he personally attended the marriage ceremony along with family members and villagers and that rituals



such as *saat phere* and application of *sindoor* were duly performed. He further stated that three children were born from the wedlock and categorically asserted that late Ranjit had contracted no other marriage during his lifetime. In cross-examination, though he stated that Kamla Bai was residing as wife of Ranjit at one point, he denied the suggestion that Fulbasiya was not married to Ranjit and clarified that he had no knowledge of service-record nominations. He further stated that had any second marriage been performed with customary rites, he would have known about it.

19. Sohan Singh (PW-3), a resident of village Tengni, corroborated the testimony of PW-2 by stating that Myajo Bai is also known as Fulbasiya and that she is the legally wedded wife of late Ranjit. He deposed that he attended the marriage procession at village Basdei and that after marriage Fulbasiya resided with Ranjit at village Tengni, from where their three children were born. In cross-examination, he denied that the marriage was a “Bandhwa” marriage and stated that he had no knowledge regarding nomination in service records.
20. From the consistent testimonies of PW-2 Dharmajit and PW-3 Sohan Singh, it stands clearly established that Fulbasiya @ Myajo Bai was the legally wedded wife of late Ranjit. Both witnesses have consistently deposed regarding solemnization of marriage in



accordance with customary rites, their personal presence at the ceremony, and the birth of three children from the wedlock. The evidence further establishes that late Ranjit had not contracted any other marriage during his lifetime.

21. It is also borne out from the record that Plaintiff No.1 was granted maintenance by a competent Court during the lifetime of late Ranjit after due adjudication. Though an order of maintenance is not conclusive proof of marriage, it constitutes strong corroborative evidence. When read along with the consistent oral evidence on record, the marital status of Fulbasiya @ Myajo Bai stands firmly established.
22. So far as the alleged Will is concerned, Kamla Bai has deposed that late Ranjit executed a Will in her favour on 24/11/2000, marked as Exhibit D-1. In her cross-examination, she stated that the Will was written by Amarsai Patel between 10–11 a.m. in the presence of Shivnarayan Singh, Banshidhar, and Ranjit.
23. Shivnarayan (DW-2), one of the attesting witnesses, deposed that late Ranjit executed the Will at village Tengni. The witness is admittedly a resident of village Pipra and has failed to explain his presence at village Tengni at the relevant time. No independent or local witness from village Tengni was present at the time of



execution. Further, the witness has not stated that the contents of the Will were read over and explained to late Ranjit or that he admitted the same to be correct before affixing his thumb impression in the presence of the attesting witnesses. These omissions create serious and unexplained suspicious circumstances. The witness further stated that late Ranjit declared Kamla Bai to be his sole heir. Mere declaration, however, does not create heirship, which flows by operation of law. Testamentary succession can operate only if the Will is duly proved. Further, the other attesting witness to the Will has not been examined. Thus, the mandatory requirements of proof remain unfulfilled.

24. It is also relevant to note that Exhibit D-1 is an unregistered document allegedly written shortly before the death of late Ranjit. Though a Will need not be executed on stamp paper or registered, the nature of the document assumes significance where suspicious circumstances exist. In the absence of independent witnesses, examination of all attesting witnesses, and compliance with statutory requirements, the mere production of Exhibit D-1 cannot confer any testamentary right upon the appellant.
25. Apart from the above, Dr. Ku. Sunanda (PW-4), a qualified expert in forensic science and fingerprint examination, has deposed that she scientifically examined and compared the thumb impression of



late Ranjit available on the reply filed by him in the proceedings under Section 125 CrPC filed by the plaintiff No.1 with his thumb impression appearing on the alleged Will dated 24/11/2000 (Ex.D-1) propounded by the defendant No.6. Upon detailed analysis of ridge patterns, ridge flow and characteristic points, she categorically opined that both thumb impressions are not of the same person. The witness has further deposed that she also examined the thumb impression of Fulbasiya @ Myajo Bai available on the application filed under Section 125 CrPC and compared the same with her admitted specimen thumb impressions obtained before the Court. On such scientific comparison, she opined that the questioned and specimen thumb impressions of Fulbasiya @ Myajo Bai are identical and belong to one and the same person. The expert evidence, which has remained unshaken in cross-examination, thus conclusively establishes the identity of Fulbasiya @ Myajo Bai and simultaneously casts serious doubt on the genuineness of the alleged Will (Ex.D-1).

26. It is further held that the appellant/defendant No.6 has failed to establish that she was the legally wedded wife of late Ranjit. The presumption, if any, arising from alleged long live together stands rebutted by direct and cogent evidence of a valid subsisting marriage between late Ranjit and Plaintiff No.1.



27. On the contrary, the plaintiffs have successfully proved that Plaintiff No.1, Fulbasiya @ Myajo Bai, was lawfully married to late Ranjit in accordance with customary rites and that Plaintiffs No.2 to 4 are the legitimate children born from the said wedlock. Even, the said fact has duly been corroborated by the evidence of brother of Ranjit namely PW-2 Dharmajit and PW-3 Sohan Singh.
28. As per the affidavit filed by defendant No.6 under Order 18 Rule 4 CPC on 02.02.2010, she stated her age as 41 years on the said date. Ranjit died on 16.12.2000, it means as on the said the age of Kamla Bai was 31 years. However, though she stated that she is the legally wedded wife of Ranjit and living with since a long period but the defendant No. 6 failed to give the exact date or year of marriage with Ranjit. Thus, merely on the basis of presumption, she cannot be treated as the legally wedded wife of Ranjit or staying with him since a long period. Whereas, from the statement of PW2, Dharamjit, brother of Ranjit and PW3, Sohan Singh, it is crystal clear that the marriage between Ranjit and plaintiff no. 1 was solemnized as per Hindu rites and rituals and there is no mention that the said marriage dissolved between the parties.
29. The Supreme Court in the matter of *Shiramabai W/o Pundalik bhawe & Others v. Captain, Record Officer for O.I.C Records,*



Sena Corpos Abhilekh, Gaya, Bihar State and Another, (2024)

16 SCC 773 held thus at para 24:

“24. It can be discerned from the aforesaid line of decisions that the law infers a presumption in favour of a marriage when a man and woman have continuously cohabitated for a long spell. No doubt, the said presumption is rebuttable and can be rebutted by leading unimpeachable evidence. When there is any circumstance that weakens such a presumption, Courts ought not to ignore the same.....”

30. Once there is unimpeachable evidence of PW2, Dharamjit and PW3, Sohan Singh regarding the marriage between Ranjit and the Plaintiff No.1 as per the Hindu rituals and there is no rebuttal by Ranjit in a proceeding in which the plaintiff No.1 sought maintenance from him, with regard to their relationship as husband and wife, therefore, it is held that the plaintiff no. 1 is the legally wedded wife of Ranjit whereas plaintiff Nos. 2 to 4 were born out of the said wedlock.
31. In view of the foregoing discussion, no perversity, illegality, or jurisdictional error is found in the judgment and decree passed by the learned First Appellate Court warranting interference under Section 100 of the Code of Civil Procedure.



32. Accordingly, the substantial question of law framed in this Second Appeal is answered in favour of the plaintiffs and against the defendant No.6/appellant.
33. As a sequel, the Second Appeal, being devoid of merit, is hereby dismissed. No order as to costs.
34. A decree be drawn accordingly.

Sd/-
(Bibhu Datta Guru)
Judge