

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 5085/2017  
(Special Leave Petition (C) No(s). 34872/2010)

GEETA BAI

APPELLANT (s)

VERSUS

GENESHIA BAI & ORS.

RESPONDENT (s)

O R D E R

Leave granted.

We have heard learned counsel for the parties finally at this stage.

The facts which need to be mentioned for the disposal of this appeal are that:

One Tijia Bai had marriage with Thanwar. From this marriage one son was born namely, Kartikram. Thanwar died and thereafter Tijia Bai married again to one Sakharam. From this wedlock, the appellant herein was born.

Sakharam owned certain properties. On his death, these properties were inherited by Tijia Bai. After the death of Tijia Bai, a dispute between the appellant and Kartikram arose insofar as succession of the properties left by Tijia Bai. The case set up by the appellant was that since Tijia Bai inherited the properties from Sakharam (father of the appellant), it is she only who was entitled to inherit these properties and not Kartikram as he was

not the son of Sakharam and was born out of the first marriage of Tijia Bai with Thanwar. Though this case of the appellant was accepted by the Trial Court as well as First Appellate Court , the High Court has reversed the said judgment. The High Court has proceeded on the basis that once the properties were inherited by Tijia Bai, on her death the properties would go as per the provisions of Hindu Succession Act, 1956 as belonging to Tijia Bai and since Kartikram was her son he was also entitled to half of the properties. This outcome is challenged by the appellant in the present proceedings, but we find that the aforestated principle of succession applied by the High Court is legally correct. However, there is one more aspect which the High Court has not dealt with properly.

It is pertinent to observe that before the High Court it was not mentioned as to when Sakharam died. The High Court has specifically took note of this fact, but proceeded on the assumption that he might have died before 1956 i.e. the year when the Hindu Succession Act,1956 has come into force and in view thereof the entire properties were of Sakharam on his death were inherited by Tijia Bai. There was no basis for this presumption. Since this is an important fact which has bearing on the rights of the appellant to get share in the properties of Sakharam, this Court had directed to the appellant to file death certificate of Sakharam in order to ascertain his date of death.

The death certificate is filed as per which Sakharam died on 02.08.1965. This fact makes it clear that he died after coming into effect the Hindu Succession Act,1956. As per the provisions of

the Hindu Succession Act, 1956, on the death of Sakharam, his properties would devolve upon Tijia Bai (Widow) and the appellant (daughter) in equal share. Thus Tijia Bai got only half share in the properties left by Sakharam and on her death the said half share would again be divided between her two children (appellant-daughter) and Kartikram (son), even though he was born out of the first wedlock i.e. Tijia Bai and Thanwar. We, thus, partly allow this appeal and hold that the appellant shall be entitled to 3/4th estate of Tijia Bai whereas Kartikram 1/4th of the properties. The decree shall be drawn accordingly.

.....J.  
[A.K. SIKRI]

.....J.  
[ASHOK BHUSHAN]

NEW DELHI;  
APRIL 10, 2017.

ITEM NO.2

COURT NO.8

SECTION IVA

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 34872/2010

(Arising out of impugned final judgment and order dated 22/10/2010 in SA No. 124/1993 22/10/2010 in SA No. 124/1993 22/10/2010 in SA No. 124/1993 passed by the High Court Of Chhatisgarh At Bilaspur)

GEETA BAI

Petitioner(s)

VERSUS

GENESHIA BAI &amp; ORS.

Respondent(s)

(WITH INTERIM RELIEF AND OFFICE REPORT)

Date : 10/04/2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI  
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s) Mr. Bharat Bhushan Jain, Adv.  
Mr. Naresh Kumar, Adv.

For Respondent(s) Mr. Manoj Sharma, Adv.  
Mr. Kapil Kaushik, Adv.  
Mr .S.S. Ray, Adv.  
Mr. Vaibhav Gulia, Adv.  
Ms. Rakhi Ray, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

Leave granted.

The appeal is partly allowed in terms of the signed order.

Pending application(s), if any, stands disposed of  
accordingly.

(Ashwani Thakur)

COURT MASTER

(Signed order is placed on the file)

(Mala Kumari Sharma)

COURT MASTER