

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19844 of 2010

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1. Laxmi Devi W/O Late Hari Shankar Singh R/O Vill.- Naurera, Post-Dumra, P.S.- Belsand, Distt.- Sitamarhi
 2. Sumitra Kumari D/O Late Hari Shankar Singh R/O Vill.- Naunera, Post-Dumra, P.S.- Belsand, Distt.- Sitamarhi
 3. Renu Devi W/O Hari Shankar Singh R/O Vill.- Nata Kata Ra Nagar, P.O.- Sustatok, P.S.- Gay Ghat, Distt.- Muzaffarpur
 4. Satyam Kumar Minor S/O Late Hari Shankar Singh, Represented Through His Mother Renu Devi (Petitioner No.3) R/O Vill.- Nata Kata Ra Nagar, P.O.- Sustatok, P.S.- Gay Ghat, Distt.- Muzaffarpur

.... Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary, State Of Bihar, Patna
2. The Accountant General (A&E), State Of Bihar, Bir Chand Patel Marg, Patna
3. The Registrar, Co-Operative Department, New Secretariat, Patna
4. The Assistant Registrar Co-Operative Department, Madhubani Range, Madhubani
5. The Treasury Officer, Hemra (Sitamarhi)
6. Babita Devi W/O Late Hari Shankar Singh R/O Vill.- Nanawa, Post-Dumra, P.S.- Belsand, Distt.- Sitamarhi, At Present Residing At Sangampur, P.S.- Sangampur, Distt.- Munger

.... Respondent/s

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

5 11-05-2015 Heard learned counsel for the parties.

Learned counsel for the petitioners explains that late Hari Shankar Singh, a retired employee of the Co-operative Department had only two wives, petitioner no. 1 and petitioner no. 3 and only two issues from them being petitioner no. 2 and petitioner no. 4 but then an imposter like respondent no. 6, professing to be the third wife who has moved before this Court for a direction for payment of all the retirement benefit of late Hari



Shankar Singh claiming to be his wife and since this Court had directed the respondents to consider the said grievance of respondent no. 6, payment of death cum retirement benefit of late Hari Shankar Singh has not been paid to the petitioners.

This writ application was filed on 07.12.2010, but till date the respondents have not chosen to file their counter affidavit. It is a different thing as to what respondents could have said in the counter affidavit in relation to family dispute of late Hari Shankar Singh inasmuch as he was allegedly having three wives, if not, more. The payment of retirement benefit can only be made to the admitted heirs and legal successors of the deceased retired employee. Here as noted above that there are three wives and God alone knows how many children out of them, are claiming payment of retirement benefit of Late Hari Shankar Singh. For such complicated question of fact, it is the petitioners who will have to obtain succession certificate and/or a declaration from the Civil Court as with regard to being

the legal heirs and representatives of late Hari Shankar Singh. The respondents in fact can make payment of any and every death cum retirement benefit of late Hari Shankar Singh only on receipt of such succession certificate and/or declaration of the Civil Court.

When such an observation has been made, learned counsel for the petitioners seeks permission to withdraw this application in order to enable the petitioners to move before the Civil Court for appropriate relief.

That being so, this application is permitted to be withdrawn with the aforementioned liberty.

It is, however, also made clear that since such civil suit or succession case would be filed, primarily for the purpose of claiming death cum retirement benefit of Late Hari Shankar Singh, the petitioners must implead not only Respondent no. 6, the alleged third wife but also the respondent officials who has been made party to this writ application.

(Mihir Kumar Jha, J)

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