

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3323 of 2015

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1. Most. Shahzadi Khatoon Wife of Late Md. Ali
 2. Reshma Khatoon D/o Md. Ali
 3. Shabiha Khatoon @ Sabiha Pravin D/o Md. Ali
 4. Kashmiri Khatoon D/o Md. Ali
- All are resident of Mohalla- Barahpura, P.O.- Ishakchak, P.S.- Ishakchak,
District- Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Bhagalpur
3. The Civil Surgeon, Bhagalpur
4. The Additional District Magistrate, Legal Section District Magistrate Office
Bhagalpur
5. Most. Saiyada Khatoon Wife of Late Md. Nizam R/o Village Mahgama, P.O.
Amarpur, District- Banka
6. The Principal Secretary, Finance Department, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anupa Nand Jha, Adv.

For the Respondent/s : Mr. Sunil Kumar, AC to SC-2

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 12-03-2015

Heard learned counsel for the parties.

Having regard to the fact that the petitioner claims payment of entire death cum retirement benefit as also family pension on the ground that late Nizam the deceased employee was actually murdered in collusion with his wife, namely, Most Shaiyada khatoon and, as such, she will not be entitled to get any death cum retirement benefit and/or family pension of her husband which in turn would make the petitioners being the parents/brother/sister of late Nizam to get the

amount in question, this Court would deem it expedient in the ends of justice to direct to await the result of the criminal trial pending against Most. Shaiyada Khatoon, the wife of the deceased employee.

In that view of the matter, this Court is also not inclined to issue any direction to the Secretary of Personnel and Administrative Reforms Department to answer the query of the District Magistrate, Bhagalpur in his letter dated 6.11.2009 for a simple reason that wife as a normal rule is entitled for receiving entire death cum retirement benefit after the death of her husband and if, therefore, any allegation has been made against her of committing murder of her husband, her right should not be eclipsed only on the ground of pendency of the trial against her. This Court is of the view that once such amount is been paid to the petitioners and subsequently the widow Most Saiyada Khatoon is also acquitted of her charges, the issue again will crop as to who among the two, whether the parents or the wife will be entitled to receive death cum retirement benefit of the deceased employee.

In that view of the matter, this Court would refuse to issue any direction for payment of death cum retirement benefit and/or family pension of the deceased employee to the petitioners. For the present, it would only give liberty to the petitioners to move this Court again after the trial of Most Saiyada Khatoon is concluded.

Before parting with, this Court, however, must direct the

Additional District Judge-III, Bhagalpur to ensure that the trial of Most. Saiyada Khatoon bearing Session Trial No. 109 of 2010 is brought to an end within a period of nine months from the date of receipt/production of a copy of this order.

With the aforementioned observation and direction, this application is disposed of.

Let a copy of this order be accordingly sent to District and Session Judge, Bhagalpur for its strict compliance by Trial Court.

(Mihir Kumar Jha, J)

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