

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15297 of 2010

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Sanjay Kumar Sinha, S/O Late Ajit Kumar Sinha, residing at Quarter No. F2 Old, Bihar State Electricity Board Colony, P.O. & P.S. Shastrinagar, in the Town and District Of Patna-800023.

.... Petitioner.

Versus

1. The Bihar State Electricity Board through Its Chairman, Vidyut Bhawan, Jawahar Lal Nehru Marg (Bailey Road), P.S. Kotwali, Town & Distt-Patna-800021
2. Chairman, Bihar State Electricity Board, Vidyut Bhawan, Jawahar Lal Nehru Marg (Bailey Road), P.S. Kotwali, Town & Distt-Patna-800021
3. The Secretary, Bihar State Electricity Board, Vidyut Bhawan, Bailey Road, P.S. Kotwali, Town & Distt-Patna-800021
4. The Joint Secretary, Bihar State Electricity Board, Vidyut Bhawan, Jawahar Lal Nehru Marg (Bailey Road), P.S. Kotwali, Town & Distt-Patna-800021.
5. C.M.D. through Bihar State Power Holding Company Ltd., Patna.
6. C.M.D. Bihar State Power Holding Company Ltd. Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Yigal Kishore, Sr. Advocate
: Mr. Ugranath Mallik, Advocate
: Mr. Virendra Prasad, Advocate
For the Respondent/s : Mr. Ranjit Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH
ORAL ORDER

4 05-01-2015 Heard Mr. Yugal Kishore, learned senior counsel for the petitioner as well as learned counsel appearing for the Bihar State Electricity Board (now Power Holding Company Limited).

2. The dispute is with respect to apportionment the death-cum-retiral benefit of late Ajit Kumar Sinha, who died in harness on 05.10.1993 while serving as Chief Chemist in the erstwhile Bihar State Electricity Board (now Power Holding Company Limited).



3. In order to resolve the matter with respect to payment of death-cum-retirement benefit among the heirs of late Ajit Kumar Sinha, the petitioner along with his sister, namely, Anita Sinha and full brother Sanjeev Kumar and grand mother Sunanda Devi, mother of the deceased, Ajit Kumar Sinha, filed Succession Certificate.

4. The case of the petitioner is that late Ajit Kumar Sinha contracted second marriage with Kumudani Sinha, after death of his first wife, from whom he had one son, namely, Rajeev Kumar Sinha and three daughters, namely, Abha Sinha, Rani Kumari Sinha and Kirti Sinha. From the first wife, late Ajit Kumar Sinha had two sons and one daughter, namely, the petitioner Sanjay Kumar Sinha, Anita Sinha (daughter) and Sanjeev Kumar (son). The mother of late Ajit Kumar Sinha, namely, Sunanda Devi, is alive.

5. In order to sort out the dispute with respect to apportionment of pension, the petitioner along with his sister and mother of late Ajit Kumar Sinha, had filed Succession Case No. 57 of 1994 under Section 372 of the Indian Succession Act before the District Judge, Patna and the matter was finally heard. In the aforesaid case, notice was issued to the opposite parties, who appeared but they did not object the genealogy, as such the Court

hearing the Succession case allowed 4/9 shares in favour of Sanjay Kumar Sinha (petitioner), his sister Anita Sinha and his brother Sanjeev Kumar and Sunanda Devi, mother of late Ajit Kumar Sinha.

6. It would appear from the order of the Succession Court that Sanjay Kumar Sinha was authorized to receive the death-cum-retiral benefits to the extent of 4/9 share.

7. The petitioner submits that his unit does not have any objection if balance of the death-cum-retirement benefit of late Ajit Kumar Sinha to the extent of 5/9 is released in favour of the sons and daughter of the second wife, namely, Kumudini Sinha. He further submits that he has no objection to the family pension as being paid to the second wife, namely, Kumudini Sinha.

8. Thus, it appears from the Succession Certificate that the death-cum-retiral benefits of late Ajit Kumar Sinha is to be released in favour of the petitioner to the extent of 4/9 of the share, which is entitled to receive on behalf of his full brother and sister. However, since the step brothers and sisters are not party in this writ application. The following directions are being made:

(a) On receipt of a copy of representation from the petitioner along with a copy of the order of this Court, the

competent authority would issue notice to the sons and daughters of late Ajit Kumar Sinha born from the wedlock with second wife, namely, Kumudini Sinha, under both process, for which the petitioner would file necessary requisites, i.e. envelopes and stamps.

(b) In case, the respondents appear and are not able to produce any document to demonstrate that the order passed in Succession Case has been altered, modified or set aside, the Board (Power Holding Company) would release 4/9th share in favour of the petitioner.

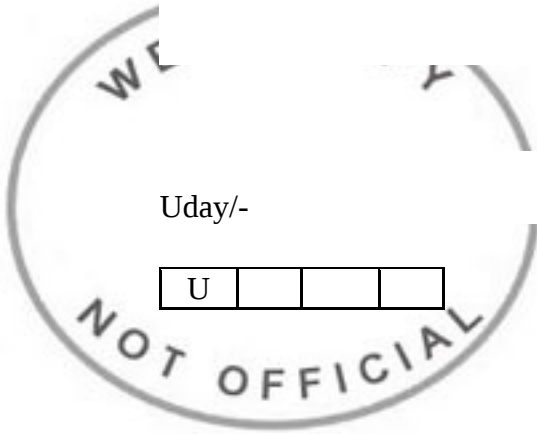
(c) In case, in spite of notice, there is no response from the other side, in such circumstances also the respondents would make payment of 4/9th share of death-cum-retiral benefits to the petitioner, which would be subject to objection, if any, that may be raised by the other side in future.

(d) The sons and daughters from the wedlock of second wife of late Ajit Kumar Sinha, namely, Kumudini Sinha, would be entitled for apportionment of 5/9th share of the total death-cum-retiral benefits accruing to late Ajit Kumar Sinha.

9. As the Succession Certificate was obtained way back in the year, 2008, the competent authority would dispose of the representation of the petitioner within six months from the date

of its filing.

10. This application stands disposed of.



(Samarendra Pratap Singh, J.)