

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.404 of 2005

Most.Kanaklata

.... Appellant/s

Versus

District Superintendent of Edu

.... Respondent/s

Appearance :

For the Appellant/s : Mr. Prashant Sinha
Mr. Bindhayachal Singh

For the Respondent/s : Mr.
Mr. (Gp1)
Mr. Debesh Kumar Poddar

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

18 03-08-2015

The appeal was listed on many occasions but no one turned up on behalf of appellant to press this appeal. This Court is left with no option but to pass order on the basis of materials available on the record.

The plaintiff appellant, daughter of Mostt. Binda Devi wife of Late Jagdeo Prasad Yadav, respondent no.3 filed a suit where relief has been sought plaintiff is also entitled to share in the retiral dues and family pension of her father, an injunction application was filed which led to impugned order.

The suit was filed by the plaintiff for declaration that on the death of her father, she also inherited the status of legal heir in the movable and immovable property left by her father

along with prayer for mandatory injunction against the defendant.

The case of the plaintiff, in brief, is that she is one of the legal heirs of deceased father who was an Assistant Teacher and died in harness on 26th May 1999. During his ailment, plaintiff rendered valuable services to him, she even sold her ornaments to arrange money for his treatment. Plaintiff was married on 22nd June 1986 but her father died on 2nd July 1988. She was blessed with a son from her wedlock, remained in service of her deceased father till his death, except for two years during her stay at her *Sasural*.

It has further been stated that after death of her father by oral family arrangement share of plaintiff was decided after obtaining her consent on affidavit, the DSE, Bhagalpur disburse to disburse money dehors to agreement with respect to gratuity, P.F. Insurance and leave encashment etc. she raised objection. Later on she was compelled to leave her *Naihar*, took shelter in the house of her *Mausa*. Legal notice was sent claiming share in the property of her father. The court below refused to grant injunction on the score that widow mother has first cause over the retiral dues than that of the plaintiff. The court below did not find triple conditions of injunction are satisfied in her favour.

This Court does not find reason and ground to

interfere with the order passed by the court below.

This Court does not find any merit in the present appeal. Accordingly, it is dismissed.

(Shivaji Pandey, J)

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