

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20576 of 2011

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Anita Devi @ Anita Kuer D/o Late Indrashani Devi Resident of Mohalla - Chaita
Line, Quarter No. C.L. Dalmiyan Nagar, District – Rohtas.

.... Petitioner/s

Versus

1. The Vir Kuer Singh University, Arrah (Bihar), through tts Registrar
2. The Vice Chancellor Vir Kuer Singh University, Arrah (Bihar)
3. The Registrar Vir Kuer Singh University, Arrah (Bihar)
4. The Principle, Women College, Dalmianagar, Rohtas

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 21-08-2015

Heard learned counsel for the parties.

The petitioner, who is daughter of late Indrashani Devi, has moved the Court praying for a direction to the respondents to pay the retiral dues of her late mother.

As per the pleadings, the mother of the petitioner at the time of death left behind four daughters including the petitioner and a husband, though a second one, whom she had married after the death of her first husband. It is submitted that once the heirs of the deceased Indrashani Devi are before the authorities and there is no 6th person claiming to be an heir also, the authorities cannot hold back the retiral dues.

Learned counsel for the University, relying upon the counter affidavit, submits that the second husband of the

petitioner's mother had filed a succession suit which is still pending. Learned counsel states that in view of the aforesaid, the authorities have rightly held back the payment till the succession suit is decided and succession certificate issued in favour of the parties.

Learned counsel for the petitioner, by way of reply, submits that the authorities should not insist for the succession certificate since it is within the power of the authorities to hold an enquiry to determine as to who are the heirs and then make payment in accordance with the share of each under the Hindu Succession Act. For such proposition learned counsel has relied on a decision of the Hon'ble Supreme Court in the case of **Rameshwari Devi v. State of Bihar** reported in **2000 (2) PLJR (S.C.) 15**. Learned counsel submits that succession certificate neither establishes any relationship nor confers any right or status and the person in whose favour such certificate is granted only becomes trustee entitled to distribute the amount payable to the deceased, to his heirs and legal representatives. He thus submits that the succession certificate is not required in the facts and circumstance of the present case. For such proposition learned counsel has relied on a decision of the Hon'ble Supreme Court in the case of **State of Chhattisgarh v. Dhirjo Kumar Sengar** reported in **(2009) 13 SCC 600**.

From the facts and circumstances of the case, the materials brought on record and submissions of learned counsel

for the parties, this Court is of the view that once the authorities have issued notice to the persons who, according to them, are the heirs i.e., four daughters of late Indrashani Devi including the petitioner and her second husband who is alive, it means that the University also accepts that they are the only five heirs. This coupled with the fact that no 6th person has claimed any relief and even the petitioner has no objection if the amount is distributed among the aforementioned five heirs in accordance with the Hindu Succession Act, the University is obliged to make such payment without any further delay.

Accordingly, the application stands disposed off with a direction to the respondents no. 3 and 4 to hold enquiry into the matter and ensure that payment is made to the heirs of late Indrashani Devi, as per their share in terms of the Hindu Succession Act, within two months from the date of production of a copy of this order upon the concerned respondents.

(Ahsanuddin Amanullah, J.)

P. Kumar/-

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