

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1256 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 23119 of 2013**

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Mosomat Urmila Devi W/o Late Jagdaun Thakur R/o Village - Hanuman Nagar,
P.S. - Singhwara, District - Sitamarhi.

.... Writ Petitioner /Appellant

Versus

1. The State of Bihar.
2. The Director General of Police Govt. of Bihar, Patna.
3. Inspector General of Police, Darbhanga Zone, Darbhanga.
4. The Deputy Inspector General of Police, Darbhanga Range, Darbhanga.
5. The Superintendent of Police, District - Darbhanga.
6. The Accountant General of Bihar, Beer Chand Patel Path, Patna - 1.

.... Respondents/ Respondents

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Appearance :

For the Appellant/s : Mr. Shiva Shankar Sharma
Mr. Arun Kumar Sinha

For the Respondents

No. 1 to 5 : Mr. Ramadhar Singh, GP 25

For Respondent No. 6 : Mr. Ram Yash Singh

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 09-08-2016

The challenge in the present Letters Patent Appeal is to an order dated 8th August, 2014, passed by the learned Single Bench in CWJC No. 23119 of 2013, whereby the claim of the appellant for restoration of family pension was dismissed.

The appellant claims to have married to one Jagdaun Thakur, who was working under Bihar Police. Jagdaun Thakur attained the age of superannuation on 1st July, 1987 and died on 19th

August, 1991. The petitioner started getting family pension when the first wife of Jagdaun Thakur, Deoki Devi, filed an affidavit to the effect that she has no objection if the family pension is paid to the appellant. But family pension was not paid after September, 1993.

It is thereafter, the appellant invoked the writ jurisdiction of this Court in the year 2013 by preferring CWJC No. 23119 of 2013 which has been dismissed.

The learned Single Judge has held that if the benefit was derived by mistaken understanding and misrepresentation that cannot form basis for continuation of such advantage where such benefit is not available to a second wife, especially when the marriage was solemnized during the life time of the first wife.

When the appeal came up for hearing before this Court on 12th July, 2016, learned counsel for the appellant sought time to find out as to whether Jagdaun Thakur married the present appellant prior to commencement of the Hindu Marriage Act, 1955, or thereafter.

Today, a supplementary affidavit has been filed to the effect that the marriage of the appellant was solemnized with Jagdaun Thakur in the year 1976. Thus, the second marriage was solemnized during the life time of the first wife of Jagdaun Thakur, namely, Deoki Devi, who died on 12.12.1995. Such marriage is a void marriage. Therefore, the appellant cannot claim grant of family

pension as such benefit can be conferred only to the first legally married wife.

In view thereof, we do not find any error in the order of the learned Single Judge which may warrant any interference by this Court in the present appeal.

The appeal is accordingly dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

mrl

AFR/NAFR	NAFR
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