

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5883 of 2013

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1. Chandrakala Devi Wife Of Raj Narain Chaudhary Resident Of Village-
Rajputana, P.S.- Jainagar, District- Madhubani

.... Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Madhubani
3. The Jainagar, Nagar Panchayat, Jainagar, District- Madhubani Through
Its Chairman
4. The Executive Officer, Jainagar Nagar Panchayat, Jainagar, District-
Madhubani
5. Bimal Chaudhary Son Of Late Raj Narain Chaudhary Resident Of
Village- Rajputana, P.S.- Jainagar, District- Madhubani

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Saroj Kumar
For the Respondent No.5 : Mr. Sanjeev Kumar, Advocate
For the State : Dr. Anshuman, SC-14

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR
MANDAL
ORAL ORDER

5 17-02-2016 Heard Mr. Saroj Kumar for the petitioner, the
counsel for respondent No.5 and the State.

Upon death of the husband of the petitioner
respondent no.5 being one of the sons of the writ petitioner was
offered compassionate appointment in the Nagar Panchayat as
Clerk. The writ application prays for a direction commanding the
respondent to deduct 50% of the salary payable to the respondent
no.5 and pay the same to the mother i.e. writ petitioner as the
respondent no.5 has declined/failed to maintain the writ petitioner.



Looking to the nature of relief this Court called upon both the parties to file further supplementary/counter affidavit. In the supplementary counter affidavit, respondent no.5 has stated that the agricultural land of the family has been left for the mother to maintain herself. The petitioner is also carrying the liability of the family of his elder son who died leaving behind his wife, marriageable daughter and son. The mother is also getting old age pension.

The petitioner, on the other hand, has stated that an affidavit was filed by the respondent to support the dependents of the deceased which includes the mother. In case of refusal to do so, the service of the respondent no.5 is liable to be terminated. A representation has been filed in this regard before the District Magistrate for taking appropriate steps in the matter. The respondent no.5, on the other hand, referring to the provisions of the maintenance and welfare of parents and Senior Citizens Act, 2007 (for short 'the Act') to submit that such dispute can be raised for consideration by the District Magistrate in case of failure of conciliation.

I have considered the submissions. This Court shall have to examine few disputed facts for granting the relief. It shall not be advisable to do so in this proceeding. The ends of

justice shall be sub served if the petitioner is granted liberty to approach the District Magistrate, Madhubani either by invoking the provision of the Act or even otherwise for consideration of her claim and passing appropriate orders in accordance with law. The application stands disposed of permitting the petitioner to do so.

Needless to observe, if any such application is filed, the concerned District Magistrate shall consider the said representation and pass appropriate order in accordance with law expeditiously preferably within 02 months of such filing.

(Kishore Kumar Mandal, J)

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