

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3535 of 2013

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1. Azad Kumar @ Azad Kumar Rajak, son of Late Bijay Ram
 2. Preety Kumari, D/o Late Bijay Ram @ Bijay Kumar Rajak, both under the guardianship of grandmother Prem Devi, w/o Late Laxmi Narayan Rajak C/o Sri Vijay Sharma, Nath House Mithapur, Khagaul Road, Patna

.... Petitioners

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna, namely, Sri Ashok Kumar Sinha
2. The Principal Secretary, Human Resources Department, Bihar, Patna, namely, Sri Amarjeet Sinha
3. The Accountant General, Bihar, Patna, namely, Sri Sanjay Kumar
4. The Director General, Provident Fund, Bihar, Patna, namely, Sri Kuwar Jang Bahadur
5. The District Provident Fund Officer, Patna, namely, Sri Brajesh
6. The Director (Adm) cum Joint Secretary, Department of Human Resources Department, Bihar, Patna, namely, Sri Rajendra Ram

.... Opp. Parties

with

Civil Review No.194 of 2015

IN

Civil Writ Jurisdiction Case No. 19913 of 2012

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Baby Devi, Wife of Late Vijay Ram, Resident of Post Office Gali, House of Mahesh Singh, Near Devi Mandir, P.O. - Anisabad, P.S. - Gardanibagh, District - Patna.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna.
2. The Principal Secretary, Human Resources Department, Govt. of Bihar, Patna.
3. The Accountant General, Bihar, Patna.
4. The Director General, Provident Fund, Govt. of Bihar, Patna.
5. The District Provident Fund Officer, Patna.
6. Azad Kumar @ Azad Kumar Rajak Son of Late Vijay Ram
7. Preety Kumari D/o- Late Vijay Ram Both under the guardianship of Grandmother Prem Devi, Wife of Late Laxmi Narayan Rajak, C/o- Sri Vijay Sharma, Nath House, Mithapur, Khagol Road, Patna.

.... Opp. Parties

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Appearance :

(In MJC No.3535 of 2013)

For the Petitioner/s : Mr. Prahlad Kumar Bhagat with Ms. Supriya Bhagat, Advocates

For the State : Mr. Gyan Shankar, AC to G.P. 2

(In C. REV. No.194 of 2015)

For the Petitioner/s : Mr. Jagdhar Prasad, Advocate

For the State : Mr. Gyan Shankar, AC to G.P. 2

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

5 28-07-2016 Heard learned counsel for the petitioner and learned counsel for the State.

Civil Review No. 194 of 2015 is taken up first for consideration. The grievance of the petitioner is that upon the death of his first wife, the said Government servant Bijay Ram had married her and till the date of his death they had remained married and thus she was also entitled to the death-cum-retiral dues along with the two minor children from the first marriage of the said Bijay Ram.

It is submitted by learned counsel for the petitioner that CWJC No. 19913 of 2012 had been filed on behalf of the two minor children but without making the review petitioner Baby Devi as a party to the said writ petition and as a result of the same the order had been passed without including her as a beneficiary of the post retiral dues of the deceased employee.

On a consideration of the order dated 13.12.2012 passed in CWJC No. 19913 of 2012 sought to be reviewed, it is evident that this Court had not adjudicated the issue with regard to the heirs of the deceased Bijay Ram as that was not at all the issue before this Court. The writ petition was disposed of with a direction to the State respondents to ensure that the death-cum-retiral dues of the deceased employee were paid to the petitioners/eligible legal heirs after due verification within a period of two months from the date of receipt of copy of the order. It was thus made clear in the said order that the death-cum-retiral dues were to be paid to the eligible legal heirs and not necessarily only to the petitioners who were present before the Court and the same had to be done after due verification by the departmental authorities. Thus any legal heir if not made a party had not been excluded in the said writ petition.

In the above circumstances, the review petitioner Baby Devi cannot claim that any adverse order has been passed in the

said writ petition and it was open to her to show before the respondent authorities that she was also a legal heir and entitled to the benefit of death-cum-retiral dues of the deceased Bijay Ram.

Civil Review No.194 of 2015 is, accordingly, dismissed.

So far as the contempt application, being MJC No. 3535 of 2013, is concerned a show cause has been filed on behalf of opposite party No.6 in which it is stated that after hearing counsels for the two minor children and Smt.Baby Devi it was found that the claim of Baby Devi could not be accepted and, accordingly, it was held that death-cum-retiral dues of Bijay Ram were to be given to the minor son and daughter. It had also been kept open in the order that if Baby Devi was able to produce any order from the competent authority in future then the order shall be reconsidered and appropriate action shall be taken. It is also stated in the said show cause that the letters have already been issued to the Accountant General, Bihar and also the Assistant Director of Provident Fund Directorate, Patna in the matter.

In the above circumstances, the opposite parties have complied with the order under contempt.

The contempt application is, accordingly, disposed of with the direction that the entire death-cum-retiral dues be paid to the two minor children as decided by the order dated 20.7.2016 expeditiously.

(Ramesh Kumar Datta, J)

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