

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3804 of 2016

Most. Rinku Devi wife of Late Baliram Mistri resident of Mohalla - Sikhar, P.O. Baragandhar P.S. Muffasil, District - Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary Public Health & Engineering Department Bisweshwaraiya Bhawan Baliey Road, Patna.
3. The Engineering in Chief, Public Health & Engineering Department Bisweshwaraiya Bhawan Baliey Road, Patna.
4. The Superintendent Engineer P.H.E.D. Mechanical, Veterinary College Campus, Patna.
5. The Executive Engineer, P.H.E.D. Mechanical, Sasaram, Rohtas.
6. Most. Janakwa Devi Wife of Late Mahesh Mistry Residence of Village - Sikhar, P.O. - Baragandhar, P.S. Muffasil, District - Gaya.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Gopal Govind Mishra, Advocate.

For the Respondent/s : Mr. S.S.P.Yadav, S.C.-14

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 30-09-2016

Heard learned counsel for the parties.

The petitioner, who claims to be the second wife of late Baliram Mistri, claims pensionary benefits on account of death of her husband in harness, who was working as Pump Operator.

As per the stand of the State, the fact of the petitioner having been legally wedded to the deceased, has not been conclusively proved due to which the authorities have directed her to obtain a Succession Certificate from the court of competent jurisdiction.



Learned counsel for the petitioner submits that after the death of the first wife of the husband of the petitioner in the year 2010, she married in the year 2012 and later on in the year 2013, the husband of the petitioner passed away. It is submitted that as per the certificate issued by the Revenue authorities and the Election Commission, she is the wife of late Baliram Mistri. Learned counsel has also referred to the decision of the Hon'ble Supreme Court in the case of *Rameshwari Devi v. State of Bihar* reported as *AIR 2000 SC 735*, to contend that there is no need to wait for decision of the Civil Court and the authority has to decide the issue. He has also relied upon a decision of a Bench of this Court in the case of *Abdul Manan vs. State of Bihar* reported as *1995 (1) PLJR 736* for the same proposition.

Learned counsel for the State submits that the date of birth of the petitioner, as mentioned in the identity card of Election Commission of India, is of the year 1991 and thus, at the time of marriage, she was 21 years whereas the deceased was aged about 48 years. Further, it is submitted that as per the certificate relating to the family members of the late husband of the petitioner, issued by the Revenue authorities in the year 2013, which was as per the application of the petitioner herself, there is a daughter aged about 10 years, which means, that she had given birth to the daughter at the age of 12

years. It is, thus, submitted that such fact clearly raises *bona fide* doubt before the authorities with regard to the claim of the petitioner moreso, when the mother of the deceased has also raised a counter claim.

Having considered the rival contentions, this Court, without expressing any opinion, cannot fault the authorities for being doubtful on the claim of the petitioner, in view of the facts stated hereinabove. Moreover, the decision relied upon by the learned counsel for the petitioner in the case of ***Rameshwari Devi*** (supra) and ***Abdul Manan*** (supra), the issue was not with regard to whether the claim was genuine, but rather to the entitlement of the children born from the second wife. The said facts of the children being born of the deceased was never in dispute. Thus, the decision in the said two cases do not apply to the facts and circumstances of the present case.

Thus, this Court is unable to interfere in the matter or fault the respondents for calling upon the petitioner to get a proper Succession Certificate from the court of competent jurisdiction.

Accordingly, the writ application stands disposed off with an observation that the authorities shall act in terms of the Succession Certificate which may be produced before them from a court of competent jurisdiction, in accordance with law and payment, as required in terms of the order of the Court, shall be made

expeditiously to the parties concerned.

(Ahsanuddin Amanullah, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
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