

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20189 of 2014

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Kiran Devi @ Kiran Kumari Wife of Late Bishwanath Thakur, Resident of
Village- Chuna Bhatti Laxmi Sagar, Ward No. 14, P.O. Laxmi Sagar, P.S.
Lalit Narayan Mithila University, District Darbhanga

.... Petitioner

Versus

1. The State of Bihar through its Chief Secretary, Old Secretariat, Patna
2. The Accountant General, Bihar, Patna
3. The Deputy Secretary, Government of Bihar, Building Construction Department, Bihar, Patna
4. The Chief Engineer (North), Building Construction Department, North Bihar, Patna
5. The District Magistrate Saran, Chapra
6. Executive Engineer, Building Division, Saran, Chapra
7. Usha Devi So called wife of Late Bishwanath Thakur, Resident of Mohalla Laxmi Sagar, P.S. L.N. Mithila University, District Darbhanga

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Ratneshwar Prasad, Adv.

For the Respondent/s : Mr. Tripurari Nath Ambastha, AC to SC26

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL ORDER

3 30-09-2016 Writ application has been filed by the petitioner, who is the first wife of one late Bishwanath Thakur, who died in harness while working as Assistant Engineer. Reason for filing the writ application is that the petitioner wants a direction upon the respondents to make payment of family pension, gratuity, group insurance, earned leave etc. etc.

A settlement with regard to post retiral dues and family pension is raked up because there is one Usha Devi, respondent no.7 to the writ application, who claims to be second wife of the deceased employee. She also has two progenies from the said

wedlock and she too has staked her claim for the share of family pension and post retiral dues.

Annexure 1 annexed with the writ application itself would indicate that respondent no.7 had moved the court of Principal Judge, Family Court, Darbhanga and a direction for maintenance was issued in her favour. This was an application under section 125 of the Cr.P.C.

From a reading of Annexure 1 it is evident that the private respondent is the second wife. She cannot claim any benefit in herself, law being what it is with regard to second marriage of a Hindu.

However, if the private respondent has minor children, that is another issue. She is free to assert her right through the minor children.

The insistence of the official respondents that in view of above dispute a succession certificate is required seems to be a misplaced demand being made from the first wife. If the service records and declaration of erstwhile Government servant indicates the status of the petitioner as wife, then there is no reason for her to produce a succession certificate, for settlement of her claim.

The respondents, therefore, are directed to settle the post retiral dues and family pension etc. of late Bishwanath Thakur. So

far as right of the children of Usha Devi is concerned, she is free to assert the same before the concerned authorities who also have an obligation to consider their claim, keeping in mind the declaration or finding emerging from Annexure 1 of the writ application.

Writ application is disposed of with the above direction.

(Ajay Kumar Tripathi, J)

Surendra/-

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