

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2225 of 2014

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Shiv Shankar Arya, S/O Late Sahdeo Ram, Resident of Qr. No. 32, Type-I, P And T Colony, Kidwaipuri, District- Patna.

.... Petitioner/s

Versus

1. The Union of India through Secretary, Department of Tele Communication, Government of India, Sanchal Bhawan, New Delhi.
2. The Secretary, Department of Tele Communication, Government of India, Sanchar Bhawan, New Delhi.
3. The Bharat Sanchar Nigam Ltd. through its Chairman, New Delhi.
4. The Chief General Manager, Bihar Circle Bharat Sanchar Nigam Ltd., Sanchar Bhawan, Buddha Marg, CTO, Building, Patna.
5. The Principal General Manager, Bharat Sanchar Nigam Ltd., Telephone Bhawan, R. Block, Patna.
6. The I.F.A. PTD, Patna.
7. The D.G.M., PTD, Patna.
8. The D.E (Vigilance), PTD, Patna.
9. The D.G.M. (Tax and Mobile) O/O Principal General Manager, Patna Telephone District, Patna.
10. The Manager, Panjab National Bank, Buddha Colony Branch, Patna.
11. Chote Lal, S/O Late Sahdeo Ram, Resident of Qr. No. 12, Type-I, P And T Colony, Kidwaipuri, District- Patna.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Rakesh Narayan Singh, Advocate
For the Respondent : Mr. Hemant Kumar Kanu, Advocate
For the U.O.I. : Smt. Renuka Sharma, Advocate
For the PNB : Mr. Kumar Priya Ranjan, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 22-01-2016

The petitioner is aggrieved by the order of the Central Administrative Tribunal, Patna Bench, Patna dated 26th September, 2012, passed in O.A. No. 614/2011. The matter relates to payment of death-cum-retiral dues in respect of Late Panna Devi, who



died in harness on 18.12.2010. The writ petitioner was the applicant before the Tribunal and is the elder son of Late Panna Devi, whereas Respondent No. 11 Chote Lal is the younger son of Late Panna Devi. Besides the two sons, there are two daughters as well, namely, Nalita and Malita. Thus, late Panna Devi had four Class-I heirs as aforesaid. Upon death, the B.S.N.L. was obliged to pay the death-cum-retiral dues. They found from her service book that she had nominated her younger son Chote Lal, Respondent No. 11 as the nominee. When the elder son (the petitioner) came to know, he immediately objected stating that while his mother was critically ill with cancer and he was getting her treated, the younger son fraudulently got the nomination in his name, depriving all the other members of the family, including the minor daughters of Panna Devi. The B.S.N.L. in view of the dispute, stopped payment. The elder brother then moved the Tribunal. The Tribunal observed that the nomination being in favour of Respondent No. 11, payment would be made to Respondent No. 11, who would be accountable to the rest of the family, as per law, which orders could be obtained from civil Court.

We have heard learned counsels for the petitioner, Respondent No. 11 and learned counsel for the B.S.N.L. and with their consent dispose of this writ petition at this stage itself.

The fact that Late Panna Devi died leaving behind

two sons and two minor daughters is not disputed by the parties. Husband of Panna Devi had predeceased her. Thus, there are only four Class-I heirs.

It is also not in dispute that Respondent No. 11 (the younger son) has been nominated to receive the death-cum retiral dues. There is distinction between the nomination and testamentary succession (Will). An individual capable of testamentary disposition of his property, can write a Will with regard to the properties he has, or is likely to receive, in favour of any person, depriving and disinheriting other heirs, whereas, nomination is only the authority to receive payments or properties and give valid discharge to the person making payment. But, this receipt of property upon nomination, is not as an absolute owner, but is as a trustee for the heirs. Therefore, the B.S.N.L. in terms of the nomination would ordinarily be obliged to make payment to the nominee, who would then give a valid discharge to B.S.N.L. for having met its liability. Upon payment being made, the heirs would be entitled to lawful division amongst themselves either by agreement or through the process of Court. But the nominee does not become the owner of the property which he receives.

Ordinarily, we would have directed that in accordance with the nomination, the B.S.N.L. should make over the payment entirely to Respondent No. 11 and then leave it to the parties



to contest and get appropriate orders from the Civil Court, but realising the fact that Late Panna Devi was herself a Class-IV employee and the claimants herein i.e. the petitioner and Respondent No. 11 would also belong to a humble status, it would be inadvisable to leave the matter to be litigated thereafter, because if and when the parties would succeed, there would be nothing left to be divided.

In these exceptional circumstances, we direct that the petitioner and Respondent No. 11 would both give the names and address of their two sisters who are equally entitled to the death-cum-retiral dues of their mother Late Panna Devi. Upon the names being given, the B.S.N.L. would divide the total money that is payable into four equal parts and make payment directly, to the benefit of the four beneficiaries/ heirs aforesaid. All of this should be completed within a period of three months from today. Both the petitioner and Respondent No. 11 should cooperate. Should either of them not supply the correct names and address of their sister or raise any dispute, payment in respect of his share shall be withheld till he cooperates in the matter. If any money has already been paid over to Respondent No. 11 pursuant to the nomination and is being held in any Bank, upon direction through a letter by B.S.N.L. to the Bank concerned, the Bank would make appropriate divisions, as specified by this Court.

With these observations and directions this writ
petition stands disposed of.

(Navaniti Prasad Singh, J)

(Nilu Agrawal, J)

B.K.Roy/Rajesh
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