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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CM(M) 918/2016 and CM Nos. 33665/2016 and 33666/2016

MASTER GAGAN & ANR Petitioners
Through Mr.B.D.Sharma and Mr. A.K.Mishra,
Advocates with petitioner No.2-in-person.

versus

DCP OUTER DISTRICT & ORS Respondents
Through Mr.Rahul Sharma and Ms.Prabhsahay
Kaur, Advocates for R-1.
Mr.Prasanta Varma, Advocate for R-5.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER
16.09.2016

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1. By the present petition, the petitioner seeks to impugn the order dated 06.08.2016 passed by the appellate court regarding the dues of the deceased Pankaj Kumar who was working in Delhi Police. Sh. Pankaj Kumar had married to respondent No.3 on 11.03.2002. He expired on 11.01.2012.

2. The present suit is filed seeking a mandatory and permanent injunction directing respondents No.1 to 3 to disburse the share amount of 1/4th share each to the petitioners which was deposited in the account of respondent No.3. A mandatory injunction is also sought directing respondents No.1 to issue shared family pension to each of the petitioners being Class I legal heirs of the deceased Pankaj Kumar. Other connected reliefs are also sought.

3. In the written statement filed by respondent No.1, it was pointed out that as per the nomination of late Sh. Pankaj Kumar, the total amount of Rs.5,79, 615/- in lieu of DCRG/Gratuity, Delhi Police Welfare Society, CGEUS + Insurance, leave encashment has been paid. Similarly, family pension till that date has been released to respondent No.3.

4. The appellate court by the impugned order directed as follows:-

“9. As regards the gratuity, the appeal is not preferred against the finding of Ld. Trial Court. As regards the claim towards insurance, leave encashment and DP Welfare Society amounts, defendant No.3. being the nominee of the deceased is entitled. This court finds itself in consonance with the findings of the Ld.Trial Judge in this respect. The accumulated amount towards pension of the deceased shall be released by the defendant No.1 in the bank account to be opened in his name as minor. The said amount shall be kept in the bank by way of FDRs with liberty to plaintiff No.1 to withdraw the amount after he attains maturity. With these observations, the appeal is partly allowed. Anything said or any opinion expressed herein is not final and is subject to the final outcome of the suit.”

5. Learned counsel appearing for respondent No.1 has reiterated that even prior to filing of the suit, necessary payments on account of insurance, leave encashment, DP Welfare Society, etc. had been released to respondent No.3. Subsequent to interim orders passed by the trial court, the family pension to respondent No.3 has not been released.

6. I have heard the learned counsel for the petitioner. The grievance appears to be that the dues other than pension have been released to respondent No.3 and that petitioner No.1, the minor son of Late Sh. Pankaj Kumar could also be entitled to a share in the said amount. It is clear that the said fund out of which the petitioner is seeking a share has already been

released to respondent No.3. Presently, the suit is still pending for final adjudication. The impugned order is only an interim order. By means of an interim injunction, there are no reasons to interfere with the impugned order. There is no infirmity in the impugned order.

7. The petition is dismissed.

JAYANT NATH, J

SEPTEMBER 16, 2016

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