

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.943 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 3786 of 2015**

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Subodh Kumar, Son of Late Ram Nath Singh, Resident of Village Chakharinam,
P.O. Bhanborhan, P.S. Mahua, District Vaishali at present C/o Shri Ram Pramod
Singh, Village & P.O. Sheodaspur, P.S Katra, District Muzaffarpur

.... Appellant/s

Versus

1. The State of Bihar through the Home Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Inspector General (Prison), Government of Bihar, Patna.
3. The Deputy Collector (Establishment), Patna
4. The Jail Superintendent of Central Jail, Beur, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Mukul Sinha, Advocate

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 22-06-2017

Delay of 352 days in filing of the appeal is condoned.

I.A. No. 3506 of 2016 stands allowed.

2. Seeking exception to an order dated 17.03.2015



passed by the learned Writ Court in C.W.J.C. No. 3786 of 2015, this appeal has been filed under Clause 10 of the Letters Patent.

3. Appellant claimed to be son of late Ram Nath Singh who was working under the respondent's department and died in harness sometimes in the year 2009. A dispute has arisen with regard to claim for compassionate appointment. Father of the appellant had two wives and in the matter of grant of compassionate appointment, a dispute has arisen between the family members.

4. The learned Writ Court found that when there is serious dispute with regard to the legal heirs, who are entitled for compassionate appointment, the matter cannot be resolved in the writ petition. The parties should obtain Succession Certificate or approach the Civil Court for redressal of their grievance. The Succession Court having refused Succession Certificate by contending that for grant of compassionate appointment, a Succession Certificate cannot be granted, this appeal is filed by contending that in view of the law laid down by a Bench of this Court in the case of **Most. Phul Kumari Devi & Ors. Vs. The State of Bihar & Ors.- 2001 (2) PLJR 395**, the dispute should be resolved by the State Government only and, therefore, learned counsel argues that directing for producing Succession Certificate which cannot be obtained in this case is unsustainable.



5. We have heard learned counsel for the parties and we have also gone through the judgment rendered in the case of **Phul Kumari Devi** (supra). In the said case, in the peculiar facts and circumstances that existed therein, the Secretary of the Department was directed to decide the rival claim of the parties. However, in this case, the deceased employee had married twice. Both the parties are claiming their right to compassionate appointment and, therefore, the department is unable to resolve the issue and has relegated the parties to bring appropriate certificate like Succession Certificate, Legal Heir Certificate or a declaration from a Court of competent jurisdiction with regard to who should get the compassionate appointment.

6. If considering all these factors, the learned Writ Court has refused to interfere into the matter, we see no reason to make any indulgence into the issue in question. In case, under law, a Succession Certificate for the appointment in question cannot be obtained, appellant can very well obtain a declaration from a Court of competent jurisdiction and stake his claim. In the backdrop of the serious dispute between the parties, it is not appropriate to go in the area of dispute and adjudicate the issue in a proceeding under Article 226 of the Constitution and, therefore, in dismissing the appeal on such consideration, we are of the considered view that the Writ Court has not committed any error. We see no reason to make any



indulgence into the matter. The appellant may take recourse to such remedy as may be available under law with regard to the appellant’s grievance.

7. The Letters Patent Appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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