

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13765 of 2015

=====

Kusum Singh Wife of Late Bijay Kumar Singh resident of C/o Shri A.K. Singh
Quarter No. 178/ 36, Gol Mohar Avenue, Railway Colony, P.S. Golabari, Howrah,
District - Howrah, West Bengal

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Road Construction Department,
Bihar
2. Deputy Secretary, Road Construction Department, Bihar
3. Treasury Officer, Road Construction Department, Bihar
4. Treasury officer, Patna
5. Sabita @ Parwati Wife of Ram Chandra Ram resident of Anand Bhawan, Badar
Ghat, P.O. Gulzarbagh, P.S. Alamganj, Town and District - Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s :

For the Respondent No. 5 : Mr. Harsh Singh, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date: 21-11-2017

Heard learned counsel for the petitioner; State, Accountant

General and the respondent no. 5.

2. The petitioner has moved the Court for the following
reliefs:

*“ That the present writ application is being
filed for a direction upon the concerned respondents
to pay the petitioner arrears of family pension since
the date of death of her husband i.e., from
05.08.2009 as well as the current family pension on
month to month basis which has not been paid the*



respondent authorities and it is further prayed that the petitioner be paid interest @ 18% on all admitted dues, to be calculated from the date of dues to the actual date of payment.”

3. The issue in contention is as to whether the petitioner or the respondent no. 5 is the legally wedded wife of deceased Bijay Kumar Singh, who superannuated from the post of Executive Engineer in the Department of Road Construction, Bihar in the year 2004 and thereafter died in the year 2009. On the basis of the records maintained by the Department, the respondent no. 5 was accepted as the wife of the deceased employee and accordingly payments were being made to her. Upon objection filed by the petitioner before the authorities, she was directed to get a succession certificate. In terms thereof, she filed Title Suit No. 554 of 2010 and by judgment dated 28.05.2011, it was declared that she was the wife of the deceased. However, the said decree was *ex parte* against the respondent no. 5 as well as the State. In view of orders passed in the present proceeding, it appears that payment which was being made to the respondent no. 5 has been directed to be stopped.

4. The matter has been heard at length. Detailed counter affidavit has also been filed on behalf of the respondent no. 5.

5. Though, the stand of the petitioner is that once she has an order of the Civil Court in her favour, benefit should be paid to



her but, on the other hand, learned counsel for the respondent no. 5 has taken the Court through various materials on record to contend that the said order was obtained fraudulently, inasmuch as, though the so called children of the petitioner herself were made defendants in the suit but the children of the respondent no. 5 were not even made party and even the State was not heard, which could have brought materials before the Court concerned to indicate that it was the respondent no. 5, who was the legally wedded wife of the deceased employee, and, thus, in the absence of both the State and the respondent no. 5, there was a friendly contest in the suit between the petitioner and her two children. It was submitted that the miscellaneous case filed against the *ex parte* judgment, has been admitted.

6. Though the Court could have given its view on the controversy as there were enough materials on record, but considering the common stand taken at the Bar and agreement between the petitioner and the respondent no. 5, refrains from doing so, so as not to affect the case of either of the parties before the Court below. The parties have agreed that the miscellaneous case itself be disposed off expeditiously for which they have assured the Court of their co-operation.

7. Learned counsel for the State submitted that it shall



ensure co-operation on its part.

8. Having regard to the aforesaid, the writ petition stands disposed off with a direction to the Sub-Judge-3, Patna, where Miscellaneous Case No. 9 of 2011 is pending, to dispose off the matter expeditiously and latest within a period of six months from the next date fixed in the case i.e., 05.12.2017, when a copy of this order shall be produced before the Court by learned counsel for the respondent no. 5. On the next appointed date in the case, the petitioner as well as the State shall also appear and short dates shall be fixed in the case and the matter shall be taken to its logical conclusion within six months thereafter.

9. In the meantime, as the authorities have now taken a decision to stop the payment to either of the parties, the position shall continue and shall abide by the final result of the litigation between the parties before the Court below. It is expected that the parties shall co-operate with the Court below. The State shall also produce all materials available with it before the Court below for proper adjudication in the matter.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	
U	

