

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.18 of 2016

IN

Civil Writ Jurisdiction Case No. 10537 of 2006

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Fahmida Khatoon wife of Md. Mustaqueem Khan, daughter of Late Amir Hasan Khan Resident of village - Sanaiya, Police Station - Ariari, District - Sheikhpura.

.... Appellant/s

Versus

1. 1. Md. Mustaqueem Khan son of Late Sultan Khan Resident of village - Nanaura, P.O. and P.S. Nawadah, District - Nawadah, at present posted as A.S.I. in the district of Darbhanga.
2. The State of Bihar.
3. Director General of Police, Bihar, Old Secretariat, Patna.
4. Superintendent of Police, Rohtas.
5. Superintendent of Police, Darbhanga.
6. Md. Shahab Khan
7. Md. Wahab Khan both sons of Md. Mustaqueem Khan Both residents of village - Sanaiya, Police Station - Ariari, District - Sheikhpura.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Md. Najmul Hodda, Advocate
For the State : Mr. Anjani Kumar , AAG-6
For Resp. No. 1 : Mr. Anis Akhtar, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 07-07-2017

Having heard learned counsels for the parties, we find that as far as the grant of maintenance to the present appellant is concerned, learned Writ Court has upheld the order passed by the departmental authorities granting 50% maintenance to the present appellant till the retirement of the respondent-employee while he was in service. The question as to whether after his retirement, from the



pension also the maintenance amount can be deducted, is an issue which has not been adjudicated or decided and as per the statutory rule this question has to be considered and the Writ Court has granted liberty to the appellant to raise claim in accordance with law.

We are of the considered view that the order passed by the learned Writ Court does not call for any interference. Liberty is available to the appellant herein to claim maintenance from the respondent No. 1 in accordance with law by initiating process as may be permissible in law. The question as to whether by attachment from the pension, the claims can be made, can be adjudicated and decided by the competent authority.

With the aforesaid liberty to the appellant, the matter stands disposed of.

(Rajendra Menon, CJ)

S.Pandey/-

(Anil Kumar Upadhyay, J)

AFR/NAFR	NAFR
CAV DATE	NA
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