

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.454 of 2017
IN
Civil Writ Jurisdiction Case No. 23026 of 2013**

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Archana Singh @ Kumari Archana Singh, daughter of Late Bashisth Prasad Singh,
resident of Mohalla- Neem Pokhar, P.S. L.N.M. University, District- Darbhanga.

.... Appellant/s

Versus

1. The State of Bihar.
2. The Secretary, Department of Finance, Government of Bihar, Patna.
3. The Secretary, Science & Technology Department, Government of Bihar, Patna.
4. The Director, Science & Technology Department, Government of Bihar, Patna.
5. The Principal, Government Polytechnic, Darbhanga, at Darbhanga.
6. The Accountant General, Bihar, Patna.
7. The Senior Superintendent of Police, Gaya.
8. Kamla Devi, wife of Late Kumar Dinesh Singh @ Dinesh Singh, resident of
Village- Bindoli, P.O. Bindoli, P.S.- Khizersarai, District- Gaya.

.... Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Manoj Kumar No.-1 Mr. Abhimanyu Vatsa, Advocate Mr. Sudhanshu Trivedi, Advocate
For the State	:	Mr. Mritunjay Kumar, AC to –AAG-6
For Resp. No. 8	:	Mr. Sanjay Kumar, Advocate Mr. Ashutosh Singh, 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: 25-07-2017

Having heard learned counsel for the parties, we find that
finding serious dispute between the appellant and respondent No. 8 as



to who is the legally married wife of the deceased employee, namely, Dinesh Kumar Singh, the Writ Court has relegated the parties to take recourse to remedy of obtaining succession certificate. However, before doing so the Writ Court has gone into various aspects of the matter on merit and in para-46 the following observations are made:-

“46. In view of the overwhelming evidence in the present case as discussed hereinabove, prima facie, the petitioner has been able to make out a case that she is the legally wedded wife of the deceased employee. However, the aforesaid view of mine is tentative in nature as a proper declaration in this regard can only be made by civil court of competent jurisdiction in a succession case under the Indian Succession Act, 1925.”

Keeping in view the aforesaid facts and circumstances, we are of the considered view that once the Writ Court has relegated the parties to take recourse of remedy under the Successions law, the observation made by the Writ Court in the order in question being tentative in nature shall not be binding upon the Civil Court while considering the issue under the Indian Successions Act and the Civil Court shall be free to proceed in the matter without being influenced by any observation made by the Writ Court in the impugned order.

The Civil Court shall be free to proceed in the matter based on evidence recorded in the proceedings of succession without



prejudiced or biased by the observations made in the impugned order.

The interim order to continue till final decision is taken by the Succession Court.

The Civil Court to decide the proceedings within three months of its initiation.

With the aforesaid, the appeal stands disposed of.

(Rajendra Menon, CJ)

S.Pandey/-

(Anil Kumar Upadhyay, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.07.2017
Transmission Date	

