

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2055 of 2016

Indu Gupta @ Indu Devi, wife of Devendra Prasad Gupta, resident of Village-
Rahmatpur, P.S. Asarganj, District- Munger.

... .. Petitioner/s

Versus

1. The State of Bihar through Collector, Munger.
2. The Sub Divisional Officer, Tarapur, District- Munger.
3. The Circle Officer, Tarapur, District- Munger.
4. Shiv Kumar Bhagat, son of Late Abhay Kumar Sinha, Resident of 402,
Ashirbad Apartment, Boring Road, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 3867 of 2015

Indu Gupta @ Indu Devi, Wife of Devendra Prasad Gupta, resident of Village
- Rahmatpur , P.S. Aswarganj, District- Munger.

... .. Petitioner/s

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4. Shiv Kumar Bhagat, Son of Late Abhay Kumar Sinha, Resident of 402
Ashirbad Apartment, Boring Road, Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 2055 of 2016)

For the Petitioner/s : Mr. Birendra Kant Chaudhary, Adv.



For the respondent N.4 : Mr. N.K. Agrawal, Sr. Adv.
Mr. Shankar Kumar Thakur, Adv.
Ms. Preety Kunwar, Adv.
For the State : Mr. Kinkar Kumar, SC-27
(In Civil Writ Jurisdiction Case No. 3867 of 2015)
For the Petitioner/s : Mr. Birendra Kant Chaudhary, Adv.
For the State : Mr. Ajay, GA-8

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT
Date : 05-12-2018

The petitioner/Indu Gupta @ Indu Devi claims herself to be the daughter of one Sheo Nandan Prasad Bhagat. For the purposes of obtaining a certified genealogical table, an application was filed by the petitioner before the Circle Officer, Tarapur, who, *vide* his order dated 30.04.2005 declared the genealogical table showing her as the daughter of one late Sheo Nandan Prasad Bhagat and Ramrati Devi.

2. This certificate was found to be incorrect by order dated 06.05.2015 passed by the Sub-Divisional Officer, Tarapur in Miscellaneous Case No. 337 of 2014, wherein the petitioner has been shown to be the daughter of Raghunandan Bhagat, who is the full brother of aforesaid Sheo Nandan Prasad Bhagat.



3. It appears that when the first genealogical certificate dated 30.04.2005 was issued by the Circle Officer, Tarapur on 31.07.2006, the same was objected by the respondent No. 4 as being a document which was based on no material. Satisfied with the objection, the aforesaid genealogical certificate dated 30.04.2005 was cancelled. It may be noted here that the respondent No. 4 had approached this Court *vide* C.W.J.C. No. 3222 of 2013, wherein a direction was issued to him to appear before the Sub-Divisional Officer, Tarapur along with a copy of the order passed in the aforesaid writ petition for a re-hearing in the matter with respect to the correctness of the genealogy wherein the status of the Indu Gupta @ Indu Devi was shown as the daughter of Sheo Nandan Prasad Bhagat.

4. Pursuant to the aforesaid order passed in C.W.J.C. No. 3222 of 2013, dated 04.03.2013 referred to above, a proceeding was initiated in which it was held that the petitioner is the daughter of Raghunandan Bhagat and Ramrati Devi and not of Sheo Nandan Prasad Bhagat, who had died unmarried and intestate.



5. The aforesaid order dated 06.05.2015 of the Sub-Divisional Officer, Tarapur has been challenged in the present writ petition on the ground that the writ-Court by order dated 04.03.2013 had directed the respondent No. 4 to approach the Sub-Divisional Officer, Tarapur, who, in turn, was under an obligation to re-hear the matter after issuing notice to all the concerned parties for deciding about the genealogical table. Bypassing the direction in the aforesaid order, the Sub-Divisional Officer opened a fresh proceeding and decided that the petitioner was not the daughter of Sheo Nandan Prasad Bhagat, as claimed by her.

6. Apart from this, the objection which has been seriously raised by the petitioner is that the entire records in support of the claim of the petitioner that she is the daughter of Sheo Nandan Prasad Bhagat is attached with the proceedings of Miscellaneous Case No. 22 of 2006-2007. In the event of the Sub-Divisional Officer, Tarapur not following the direction of this Court in re-hearing the matter and his opening a fresh proceeding, viz., Miscellaneous Case No. 337 of 2014, the petitioner has been left without any



document to offer in support of her claim.

7. A perusal of the order, which has been impugned in the present proceeding, clearly belies the submissions made on behalf of the petitioner. The order takes reference of the order passed by this Court in C.W.J.C. No. 3222 of 2013 and has also taken into account other relevant materials to come to the conclusion that the petitioner was not the daughter of Sheo Nandan Prasad Bhagat but was the daughter of Raghunandan Bhagat, the full brother of aforesaid Sheo Nandan Prasad Bhagat, both of whom are dead.

8. As opposed to the aforesaid contention on behalf of the petitioner, Mr. N.K. Agrawal, learned Senior Advocate, who has appeared on behalf of respondent No. 4, has submitted that the genealogical certificate issued *vide* Annexure-7, dated 06.05.2015, would be of no probative value and would serve no purpose for anyone. The respondent No. 4 incidentally is son of the sister of Sheo Nandan Prasad Bhagat and Raghunandan Bhagat.

9. Mr. Agrawal, therefore, submits that in case



the issue with respect to the parentage of the petitioner is to be ascertained and decided, that can only be done by a competent Civil Court and not by an executive authority in miscellaneous case preferred before him.

10. There is force in the submission of Mr. N.K. Agrawal, learned Senior Advocate.

11. For all practical purposes, neither of the two certificates issued *vide* orders dated 06.05.2015, passed by the Sub-Divisional Officer, Tarapur and 31.07.2006, passed by the Circle Officer, Tarapur, can be said to be the correct genealogical table. For the petitioner to claim her parentage, she is required to go before the competent Civil Court where the parties would adduce evidence in support of their respective claims and the issue will be decided in accordance with law.

12. For the aforesaid reasons, no order is passed with respect to the correctness of the order contained in Annexure-7, which has been impugned in the present proceeding.

13. It is only declared that neither of the



certificates can be accepted to be the correct genealogical table. For the aforesaid purpose, either of the parties, *i.e.*, the petitioner or the respondent No. 4 or anybody interested in that regard would be required to and may approach the Civil Court for a decision over the issue of parentage.

14. With the aforesaid observation, the writ petitions are disposed of.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	12.12.2018
Transmission Date	N/A

