IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.95 of 2018
In
Civil Writ Jurisdiction Case No.7374 of 2014

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1. The State of Bihar through the Principal Secretary, Water Resources Department, Sichai Bhawan, Old Secretariat, Government of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Superintending Engineer, Tubewell Circle, Muzaffarpur.
4. The Executive Engineer, Tubewell Division, Hazipur.
5. The Junior Engineer, Tubewell Division, Hazipur.
6. The Treasury Officer, Muzaffarpur.
7. The Accountant General, Bihar, R- Block Patel Path, Patna.

... ... Appellant/s

Versus

Smt. Prem Shila Devi, Wife of late Maheshwar Sah (Ex Tubewell Operator), Village+P.O.- Chapra Megh, P.S.- Mushari, District Muzaffarpur.

... ... Respondent/s

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Appearance :
For the Appellant/s : Mr. Nasrul Huda Khan, SC 1
Ms. Babita Kumari, JC to SC 1
For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

5 26-11-2018 Heard Sri Nasrul Huda Khan, learned Standing Counsel No.1, for the appellant-State of Bihar.

This appeal was filed with certain defects. In view of the order that we propose to pass in appeal, we find expedient and in the interest of justice to ignore the defects and proceed with the appeal. The stamp report defects, therefore, stand removed.

Re.: I.A. No.418 of 2018

Heard learned counsel for the State. The cause shown in support of this application for condoning the delay in filing the appeal is sufficient. The application is allowed. The appeal shall be treated to be within time.

Re.: L.P.A. No.95 of 2018

The learned Single Judge in a writ petition filed by the widow of an ex- Tubewell Operator has quashed the recovery of Rs.1,60,697/- that had been withheld from the amount of gratuity payable to an employee on an allegation of certain items reported to be missing at the time of the superannuation of the employee who had also died. The proceedings for deducting the said amount were admittedly initiated after the death of the employee on 22nd December, 2010. This fact is not disputed by the appellants.

The question raised by the learned counsel for the appellants is that keeping in view the relevant provisions, the order for withholding the amount recoverable does not suffer from any infirmity and for which reliance has been placed on the judgment in the case of **Chandri Devi versus The State of Bihar & others,** reported in **1999 (2) PLJR 372.**

We have considered the submissions raised and we find that such issues came to be considered by a Full Bench of this Court in the case of **Arvind Kumar Singh and others Vs. State of Bihar and others**, reported in **2018 (2) PLJR 933.** The said judgment exhaustively deals with the provisions as also the judgments on the issue and we find that in the instant case, the proceedings having been initiated after the death of the employee do not appear to be supported by an appropriate sanction in law by the competent authority. Apart from this, the amount is a petty amount and this Court in the exercise of extra-ordinary jurisdiction would not interfere with the judgment of the learned Single Judge keeping in view the fact that substantial justice has to be done, more so in the case of a widow, who should not be permitted to litigate this appeal for such a petty amount. The prayer for exercise of any such discretion and interference with the learned Single Judge's decision is refused.

Rejected.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Sunil/-

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