

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22976 of 2013

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Rishi Kumar Singh son of Late Badri Singh, R/o village Dodhanpura, P.O. Ragunathpur, Distt. Buxar.

.... Petitioner/s

Versus

Mosafir Singh & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajiv Ranjan Kr. Pandey, Advocate

For the Respondent/s : Mr. Awdhesh Kumar Pandey, Advocate

Mr. Ajay Kumar, Advocate

Ms. Binita Singh, S.C. 28

Mr. Sudhanshu Trivedi, A.C. to S.C. 28

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR

ORAL JUDGMENT

Date: 09-05-2018

This writ application has been filed for setting aside the order dated 15.06.2013 passed by learned Munsif-I, Buxar in Execution Case No. 08 of 1996 whereby and whereunder the application dated 17.03.2012 was disposed of observing that it was not proper to disburse the amount in the light of order dated 22.06.2010.

2. It appears that the Opposite 1st party who is decree holder before the Court below had filed Title Suit No. 185 of 1981 in the Court of Munsif-I, Buxar for declaration that the provisionalisation order passed by defendant-O.P.2nd set (Government of Bihar) without the name of teachers of the list of plaintiff –O.P.1st set is illegal mala fide and motivated and further



that the State Government (O.P. 2nd set) be restrained from implementing their order dated 01.10.1981. The said title suit was decreed ex-parte as per judgment dated 20.12.1989 holding that the plaintiff 1st set and O.P. 3rd set were entitled to realize their pay from the State of Bihar and its authorities. The trial court further directed the defendants to prepare bill and make payments with arrears of salary from 01.10.1981. Thereafter the plaintiff filed Execution Case No. 08 of 1996 which was dismissed with certain observation. The plaintiff decree holder filed Civil Revision No. 1234 of 2003 before this court which after hearing was allowed and the court below was directed to proceed with the execution case till its logical conclusion. Against the said order, the State of Bihar filed Special Leave to Appeal before the Hon'ble Apex Court vide Special Leave to Appeal (Civil) No. 22427/2005. The Hon'ble Apex Court as per order dated 21.10.2005 was pleased to stay the operation of the impugned order dated 4th January, 2005 subject to payment of 50 per cent of dues within six weeks without prejudice to the claim involved. The said Special Leave to Appeal was dismissed as withdrawn on 05.10.2012. From the annexures of this writ petition, it appears that O.P. No.1 prepared pay bill of the teachers including the petitioner and O.P. 3rd set and filed the same before the Hon'ble Apex Court and executing Court. The Government of Bihar has already deposited Rs.34 lacs



which is 50 per cent of the amount claimed in title suit. The said amount has to be disbursed among the O.P. No.1 and O.P. 3rd set. This Court has already given direction for disbursing the said amount in favour of O.P. No.1 and O.P. 3rd set as per their entitlement/share.

3. In the facts and circumstances of the case, the order of the court below is set aside and it is directed that the court below shall dispose of the matter relating to disbursement of amount among O.P. No.1 and O.P. 3rd set expeditiously as directed earlier. This writ application is accordingly allowed.

(Sanjay Kumar, J)

Harish/-

AFR/NAFR	
CAV DATE	
Uploading Date	16.05.2018
Transmission Date	

