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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8215/2017

RITU

..... Petitioner

Through: Mr. B.P. Singh and Mr. Sudhir Balyan,
Advocates.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Ms. Shubhra Parashar and Mr. V.P.S.
Charak, Advocates for R-1 to R-3.
Mr. Sanyam Tandon, Advocate for R-4.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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13.09.2018

1. Counter affidavit has been filed by the respondents No.1 to 3. However, rejoinder thereto has not been filed. Respondent No.4 (mother-in-law of the petitioner) has also not filed a counter affidavit, though last opportunity of six weeks was granted to her on 19.04.2018.

2. Learned counsel enters appearance on behalf of the respondent No.4 and tenders an apology for his absence on the last date of hearing. He states that his client is bedridden and therefore a counter affidavit could not be prepared and filed on time. He also informs us that pursuant to the common order dated 17.09.2016, passed by the Civil Judge, Baghpat in three separate petitions filed by the petitioner, respondent No.4 (mother-in-law of the petitioner) and Shri Iqbal Singh (husband of the respondent No.4 and father-in-law of the petitioner), the said petitions were dismissed with an

observation that it is necessary for the parties to approach the appropriate Court for obtaining a decree of declaration with regard to their claims of being successors of the deceased, Shri Sudhir Kumar for any rights to flow in their favour relating to his estate.

3. Learned counsel for the respondent No.4 states that thereafter, respondent No.4 had instituted a suit for declaration in the Court of Civil Judge, Baghpat where, the petitioner herein has been impleaded as a defendant. He states that the petitioner has entered appearance in the said suit that is pending adjudication. However, learned counsel clarifies that his client does not deny the status of the petitioner as a widow of her deceased son, Sudhir Kumar.

4. Similarly, the petitioner's counsel states that his client does not deny the claim of the respondent No.4 to 50% share as class-I heir, in the estate of the deceased, Sudhir Kumar.

5. Learned counsel for the respondents No.1 to 3 states that if the petitioner and the respondent No.4 submit their respective affidavits to the Department stating *inter alia* that except for themselves, there is no other class-I heirs of late Shri Sudhir Kumar and they have no objection to receiving 50% share each of the retiral dues of the deceased, as set out in para 5 of the counter affidavit and lastly, undertake that in the event any claim is lodged in the future against respondents No.1 to 3 from any quarter, claiming a right in the retiral dues of Sh. Sudhir Kumar, they shall retribute them, the respondents No.1 to 3 are willing to disburse the amounts to the extent of 50% each in favour of the petitioner and the respondent No.4.

6. Learned counsel for the petitioner and the respondent No.4 are agreeable to the above.
7. Accordingly, both the parties are directed to file their respective affidavits on the lines noted above, within four weeks while exchanging copies with each other and with copies furnished to the learned counsel for the respondents No.1 to 3.
8. If the respondents No.1 to 3 find the affidavits to be in order, then the retiral dues of the deceased, Shri Sudhir Kumar shall be disbursed in favour of the petitioner and respondent No.4 in equal share. Similarly, his family pension shall also be distributed in equal share to the petitioner and the respondent No.4, on completion of requisite formalities.
9. The petition is disposed of.

HIMA KOHLI, J

REKHA PALLI, J

SEPTEMBER 13, 2018

na/ap