

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1238 of 2016

Binda Devi Wife of Late Jamadar Sinha R/o C/o Sri Subhash Singh, west of
Tara Tower Kautalya Nagar, Police Station - Shastri Nagar, District - Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Primary Education, Bihar, Patna.
3. The District Education Officer, Rohtas.
4. The District Program Officer, Rohtas.
5. The Headmaster, Basant High School, Itimha, Karma, Rohtas.
6. The Treasury Officer, Patna.
7. The Accountant General, Bihar, Patna
8. The Branch Manager, State Bank of India, Branch Nasarigunj, Rohtas, Sasaram.
9. The Branch Manager, State Bank of India, Branch Sasaram, Rohtas.
10. Sunaina Devi Wife of late Jamadar Sinha Resident of Village - Sikaria, Police Station - Paliganj, District - Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sandeep Kumar Mr. Vinay Kumar Mishra Mr. Rohit Raj
For the State	:	Mr. Manoj Kumar, AC to GP-4
For the Respondent No. 10	:	Mr. Umesh Narayan Dubey
For the Bank	:	Mr. Kaushlendra Kumar Sinha Mr. Sunil Kumar Singh

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 13-09-2019

The present writ petition has been filed for issuance of directions upon the respondents to release payment of Rs. 8,69,534/- in favour of the petitioner, which has been transferred in the SBI A/C No. 11456928392, belonging to late Jamadar Sinha by the Department, pertaining to the retiral benefits of the



deceased husband of the petitioner.

2. The brief facts of the case, according to the petitioner, is that the petitioner claims to be the first wife of the deceased employee, namely, late Jamadar Sinha, who was posted as Assistant Teacher in Basant High School, Itimha, Karma, Rohtas and superannuated on 28.2.2010. Apparently, the deceased husband of the petitioner died on 6.5.2010, leaving behind his two wives i.e. the petitioner herein being the first wife and the respondent no. 10 being the second wife, as also one daughter, namely, Babli Kumari from the second wife.

3. At this juncture, the learned counsel appearing for the Respondent No. 10 submits that the second wife is having two daughters and one son, however, according to the learned counsel for the petitioner, they are married. The learned counsel for the petitioner has also submitted that as far as the petitioner is concerned, her children are already married.

4. It is the case of the petitioner that she being the first wife of the deceased employee, namely, late Jamadar Sinha, she is entitled to the entire retiral dues of her husband and that is why the pension payment order was issued in favour of the petitioner dated 14.11.2012, by the office of the Accountant General (A& E), Bihar and thereafter, the petitioner is being regularly paid



family pension. It is also submitted that the death cum retiral gratuity has already been paid to the petitioner. It is the complaint of the petitioner that a sum of Rs. 8.69 approximately is lying in the account of the deceased husband of the petitioner, however, the same is not being paid to the petitioner herein.

5. The learned counsel appearing for the Respondents-State Bank of India has submitted that it is true that a sum of Rs. 8.69 lakhs approximately is lying in the account of the late Jamadar Sinha, which is existing at the Nasariganj Branch of the State Bank of India, District-Rohtas and the same has been transferred by the concerned Department on the head of retiral dues of the deceased employee. It is admitted in the counter affidavit filed on behalf of the State Bank of India that the family pension is being paid to the petitioner and the amount of death cum retirement gratuity has also been paid to the petitioner. It is the stand of the respondents-Bank that the amount lying with the Bank can be transferred in the name of the legal heirs of the deceased employee, namely, late Jamadar Sinha, however, necessary formalities and proof regarding the incumbents being legal heirs has to be furnished to the Respondents-Bank.

6. The learned counsel appearing for the Treasury Officer, Patna Collectariat, by referring to the counter affidavit filed on



his behalf, has submitted that the Respondent No. 6 i.e. the Treasury Officer is not empowered to decide as to which of the two wives would be entitled for payment of the retiral dues of the deceased employee, which are lying in the account of the deceased employee at State Bank of India Branch at Sasaram. It is also admitted that the family pension has been paid to the petitioner herein and the death cum retiral gratuity has also been paid to the petitioner herein.

7. The learned counsel appearing for the Respondent No. 10 has though admitted that the petitioner is the first wife of the deceased employee, however, he submits that the marriage of the deceased employee and the Respondent No. 10 was solemnized with consent of the petitioner herein and thereafter, children have also been born from the said wedlock. It is thus, submitted that the Respondent No. 10 is also entitled to some portion of the said retiral benefits, which have been kept in the Bank account of the late Jamadar Sinha.

8. I have heard the learned counsel for the parties and I find that all the parties agree that the petitioner herein is the first wife of the deceased employee, hence, this Court is of the view that during the subsistence of marriage of the petitioner and the deceased employee, the second marriage, according to the



Hindu Law, is void and illegal, therefore, this Court finds that the Respondent No. 10 is not entitled to any relief. This Court directs for release of the aforesaid amount of Rs. 8,69, 534/-, lying in the SBI A/C No. 11456928392 of late Jamadar Sinha with the State Bank of India, Nasarigunj, Rohtas, Sasaram in favour of the petitioner herein.

9. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	9.10.2019
Transmission Date	NA

