

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1501 of 2017

Arising out of

Civil Writ Jurisdiction Case No.11102 of 2015

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Uttim Raj Kunwar, wife of Late Jamindra Singh resident of Village - Cheta
Bigha, P.O. Deo, District- Aurangabad.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Accountant General, Bihar, Patna.
3. The District Programme Officer Estb., Aurangabad.
4. The Block Education Extension Officer, Nabinagar, Aurangabad.
5. The Superintendent of Police Vigilance Department, Government of Bihar,
Patna

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajeev Kumar Singh, Advocate
For the State : Mr. Priyadarshi Matri Sharan, AC to AAG 15
For the Vigilance : Mr. Anil Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date : 28-11-2022

Heard Mr. Rajeev Kumar Singh, learned counsel for
the appellant; Mr. Priyadarshi Matri Sharan, learned AC to AAG
15 for the State and Mr. Anil Singh, learned counsel for the
Vigilance Investigation Bureau.

2. The present appeal is directed against the order dated
21.09.2017 passed in CWJC No. 11102 of 2015 by which the
learned Single Judge has disposed of the writ petition giving
liberty to the writ petitioner-appellant to move before a Civil



Court of competent jurisdiction to establish the authenticity of the claim in the background of there being serious doubt relating to the authenticity and status of the late husband of the writ petitioner-appellant and his so called working.

3. The Court had directed learned State counsel to bring the records with him. From the same, it transpires that this dispute was raised way back in the year 2009 and two letters were given to the late husband of the appellant and there is recording in the letter dated 05.09.2009 that getting no response from the late husband of the appellant, the earlier two letters regarding payment were rescinded. It is not in dispute that the husband of the appellant died in the year 2012.

4. It was submitted that the letter dated 05.09.2009 rescinding the earlier two letters allowing payments was brought on record in the I.A filed in CWJC No. 11102 of 2015 in the year 2016 by the appellant herself.

5. Learned counsel for the State submits that copy of the said I.A. had been served on him and the same is on his record and thus the appellant cannot now take a plea that this was never known to her as she herself has brought the letter dated 05.09.2009 on record by way of I.A. proposing to challenge the



same.

6. Be that as it may, because of the factual aspects and having regard to the submissions of learned counsel for the parties and what is present in the record of the State as also the rescinding of the earlier two letters directing payments, the Court finds that even though there may not be any vigilance case pending against the late husband of the appellant, other factual aspects are equally important and have to be taken into consideration before payment of any amount can be made, that too, from the public exchequer. Thus, the Court does not find any occasion to interfere with the observation made by the learned Single Judge in the order impugned dated 21.09.2017 passed in CWJC No. 11102 of 2015 for moving before a Civil Court of competent jurisdiction to establish the authenticity of the claim where the learned Single Judge has also safeguarded the writ petitioner-appellant from any prejudice being caused by observing that dismissal of the writ petition may not come in the way of such relief, if it is sought.

7. For reasons aforesaid, the present appeal stands disposed of affirming the order under appeal and reiterating the observation that the writ petitioner-appellant, if so advised, may



move before the Civil Court of competent jurisdiction to establish the authenticity of her claim and the same will not be prejudiced by the order passed, either by the learned Single Judge in the impugned order or in the present appeal.

(Ahsanuddin Amanullah, J)

(Sunil Dutta Mishra, J)

saaurabhkr/-

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

