

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1324 of 2022

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1. Saheb Hussain S/o Late Md. Modin, Ex-jamadar, Resident of Village-Bira Bankat, P.O.-Bankat, P.S.-Bhagwanpur Hatt, Dist-Siwan, Bihar, PIN-841808.
 2. Saida Khatton W/o Muna Miya, D/o Late Md. Modin, Resident of Vilalge-Rasulpur, P.O.-Chainwa, P.S.-Rasulpur, District-Chapra Saran.

... .. Petitioner/s

Versus

1. The Union of India through the Director, The National Survey and Mapping Organisation of Country, Under the Department of Science and Technology, Government of India, New Delhi.
2. The Director, Bihar Geo-Spatial Data Central, Office of the Director, Bihar G.D.C. Bihar, 7 Floor (Block A, F and G) Karpuri Sadar, Kendriya Karyalya Parisar, Ashiyana Road Patna-800025.
3. The Surveyor Officer, Office of the Director, Bihar Geo-Spatial Data Central, Karpuri Thakur Sadan, Kendriya Karyalya Parisar, Ashiyana Digha Road Patna-25.
4. The Secretary, Welfare Committee, Bihar G.D.C., Patna-800025
5. The Welfare Officer, Bihar, G.D.C. Patna-800025.
6. Sarfuddin S/o Late Modin, Resident of Village-Bihar Bankat, P.O.-Bankat, P.S.-Bhagwanpur Hatt, Dist-Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Maheshwar Prasad, Advocate
For the Respondent/s : Mr. Alok Kumar Jha, C.G.C.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 21-09-2023

Heard Mr. Maheshwar Prasad, learned counsel
appearing on behalf of the petitioners and Mr. Alok Kumar Jha,
learned C.G.C. for the respondent/s.

2. Learned counsel appearing on behalf of the



petitioners submitted that in paragraph no. 16 of the counter affidavit filed on behalf of the respondent no. 2- the Director, Bihar Geo- Spatia Data Center it is stated that the retirement benefits due to the deceased employee, namely, Late Md. Modin has been paid to his eldest son, namely, Md. Sarfuddin to whom the deceased employee had nominated as would be reflected from the service book of Late Md. Modin, who had retired from the post of Jamadar from Bihar Geo- Spatial Data Center, Patna. Petitioner is aggrieved that his elder brother, namely, Md. Sarfuddin has not distributed the retiral benefits among the legal heirs of Late Md. Modin in equal shares and in this regard learned counsel has placed reliance on a judgment passed by the Apex Court in case of *Shipra Sengupta v. Mridul Sengupta & Ors.* reported in *(2009) 10 SCC 680*.

3. Referring to different paragraphs of the said judgment, learned counsel submitted that the Apex Court in paragraphs no. 15, 16 and 17 has held that the nominee does not confirm any beneficial interest on nominee and as such the petitioner and other biological sons and daughters of the deceased employee are entitled for retiral benefits in equal shares.

4. The relevant paragraphs of *Shipra Sengupta*



(Supra) are quoted herein below :-

“15. The appellant also placed reliance on the judgment of this Court in Vishin N. Khanchandani v. Vidya Lachmandas Khanchandani [(2000) 6 SCC 724] , wherein this Court held that: (SCC pp. 734-35, para 13)

“13. ... the law laid down by this Court in Sarbati Devi [(1984) 1 SCC 424 : 1984 SCC (Tax) 59] holds the field and is equally applicable to the nominee becoming entitled to the payment of the amount on account of National Savings Certificates received by him under Section 6 read with Section 7 of the Act who in turn is liable to return the amount to those in whose favour the law creates a beneficial interest, subject to the provisions of sub-section (2) of Section 8 of the Act.”

16. Learned counsel for the appellant also placed reliance on a Division Bench judgment of the Delhi High Court in Ashok Chand Aggarwala v. Delhi Admn. [(1998) 7 AD 639 (Del)] This case related to the Delhi Cooperative Societies Act. The High Court while following Sarbati Devi case [(1984) 1 SCC 424 : 1984 SCC (Tax) 59] held that it is well settled that mere nomination made in favour of a particular person does not have the effect of conferring on the nominee any beneficial interest in property after the death of the person concerned. The nomination indicates the hand which is authorised to receive the amount or manage the property. The property or the amount, as the case may be, can be claimed by the heirs of the deceased, in accordance with the law of succession governing them.

17. The controversy involved in the instant case is no longer res integra. The nominee is entitled to receive the same, but the amount so received is to be distributed according to the law of succession. In terms of the factual foundation laid in the present case, the deceased died on 8-11-1990



leaving behind his mother and widow as his only heirs and legal representatives entitled to succeed. Therefore, on the day when the right of succession opened, the appellant, his widow became entitled to one-half of the amount of the general provident fund, the other half going to the mother and on her death, the other surviving son getting the same.”

5. In this regard a reference can also be drawn to paragraph no. 12 of the the Apex Court judgment in the case of *Sarbati Devi and Another v. Smt. Usha Devi*, reported in *(1984)1 SCC 424*, the same is reproduced hereinafter:-

“12. ...The nomination only indicates the hand which is authorised to receive the amount, on the payment of which the insurer gets a valid discharge of its liability under the policy. The amount, however, can be claimed by the heirs of the assured in accordance with the law of succession governing them.”

6. In these background, the petitioners seek to avail appropriate remedy in accordance with law for consideration of his case in accordance with the Provision of Hindu Succession Act, 1956.

7. In view of the law as laid down by the Hon’ble Supreme Court the heirs of the deceased employee are entitled for share in the retiral benefits in accordance with the provisions of Sub-Section 2 of Section 8 of the Hindu Succession Act, 1956. In other words, the nomination does not confer any



beneficial interest on the nominee.

8. The petitioners, if so advised, may avail appropriate remedy in accordance with law for consideration of his case in accordance with the provision of Hindu Succession Act, 1956.

9. Accordingly, the present writ petition is disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	27.09.2023
Transmission Date	N/A

