

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8787 of 2023

1. Sri Bhagwan Mishra (since dead)

(i) Renu Devi @ Renu Kunwar, wife of late Bhagwan Mishra

(ii) Dharmendra Kumar Mishra, son of late Bhagwan Mishra

(iii) Birendra Kumar Mishra, son of late Bhagwan Mishra

(iv) Vikash Kumar Mishra, son of late Bhagwan Mishra

All are resident of Resident of village- Kalyanpur, P.O. Berath, P.S.-
Charpokhari, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary, Urban Development Department, Government of Bihar, Patna.
2. The Commissioner, Patna Municipal Corporation, Patna.
3. The District Magistrate Cum Collector, Patna.
4. The Executive Officer, Patliputra Circle, Patna Municipal Corporation, Patna.
5. The Hare Ram Mishra, Son of Late Satyanarayan Mishra, Resident of village- Kalyanpur, P.O.- Berath, P.S.- Charpokhari, District- Bhojpur, At present- Sapna Cinema, Ara, Shivganj Shital Tola, P.S.- Nawada, Bhojpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Bishwajeet Pandey, Adv.
For the PMC	:	Mr. Ranjeet Kumar Pandey, Adv.
For the State	:	Mr. Yogesh Kumar, AC to SC 9

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 07-12-2023

Heard Mr. Bishwajeet Pandey, learned counsel
appearing on behalf of the petitioner and Mr. Ranjeet Kuamr
Pandey, learned counsel for the Patna Municipal Corporation.
The State is represented by Mr. Yogesh Kumar.



Re.: Interlocutory Application No. 1 of 2023

2. At the outset, learned counsel for the petitioner submits that during the pendency of the present writ petition the sole petitioner namely, Sri Bhagwan Mishra, died on 12.02.2023 and as such an Interlocutory Application bearing I.A. No. 1 of 2023 has been filed for substituting the names of his legal heirs, particular of which has been duly mentioned in paragraph no. 2 thereof.

3. In view the averments made in the Interlocutory Application, I.A. No. 1 of 2023 stands allowed.

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4. The petitioner, by invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution, has filed the present writ petition seeking a direction upon the respondents to dispose and give effect to the application dated 31.01.2023 filed by the respondent no. 5 before the Executive Officer, Patliputra Circle, Patna Municipal Corporation wherein the respondent no. 5 has requested that all the retiral benefits would be given to the original petitioner.

5. A counter affidavit has been filed on behalf of the Patna Municipal Corporation in which it is categorically averred that the original petitioner is neither an employee of the



Corporation nor he can claim the retiral benefits of the respondent no. 5 from the Patna Municipal Corporation, inasmuch as, he has no *locus standi* to present the writ petition. He further submits that the original petitioner claimed himself to be brother of respondent no. 5 prays for execution of the undertaking given by the respondent No. 5.

6. At this juncture, learned counsel for the petitioner submits that after the death of the father of the original petitioner and the respondent no. 5, a family settlement had taken place wherein the respondent no. 5 has given an undertaking, that on his being appointed on compassionate ground, the original petitioner would be entitled for retiral benefits.

7. Considering the nature of relief as prayed for, in the opinion of this Court, the present writ petition is not maintainable. No prerogative/extraordinary jurisdiction of the Hon'ble Court can be invoked to execute a family settlement.

8. Needless to observe that in case the heirs of the original petitioner claim any right accruing on account of family settlement, they have remedy before the Civil Court of competent jurisdiction or any other forum but not before this Court.



9. In view thereof, the present writ petition *sans* any merit. Accordingly, the writ petition stands dismissed.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	11.12.2023
Transmission Date	

