

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1476 of 2018

In
Civil Writ Jurisdiction Case No.4916 of 2018

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Rajeshwari Devi, Wife of Late Ajab Lal Pandit @ Neelkushum, Resident of Village/Mohalla-Tilakpur, P.O.-Manjhauli Matihani, P.S.-Belhar, Distt.-Banka.

... .. Appellant/s

Versus

1. The State Of Bihar through its Principal Secretary, Higher Education (Education Department), Govt. of Bihar, Secretariat, Patna
2. The Principal Secretary, Human Resources Department, Govt. of Bihar, Secretariat. Patna.
3. The Vice-Chancellor, Tilka Manjhi Bhagalpur University, Bhagalpur
4. The Secretary, Tilka Manjhi Bhagalpur University, Bhagalpur
5. Assistant Secretary Establishment, Tilka Manghi Bhagalpur University, Bhagalpur.
6. The Finance Officer, Tilka Manjhi Bhagalpur University Bhagalpur.
7. Deputy Secretary, Tilka Manjhi Bhagalpur University, Bhagalpur.
8. Principal, M/S S.S.V. College, Kahalgaon.
9. Nirmal Devi @ Nirmala Sah, Daughter of Hari Prasad Sah, Resident of Mohalla-Jogsar, towards Masjid, Budha Nath road, P.S.-Kotwali, Distt.-Bhagalpur.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr.Prashant Kumar Dwivedi, Advocate
For the State	:	Mr. Prabhat Ranjan Singh, AC to AAG-15
For the University	:	Mr. Diwakar Yadav, Advocate
For respondent no.9	:	Mr. Abdul Mannan Khan, Advocate
		Mr. Suman Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ARUN KUMAR JHA)

Date : 17-01-2023

In I.A. No.7992 of 2018

Heard learned counsel for the respective parties on the point of limitation.

2. This interlocutory application has been filed for



condoning the delay of 6 days in preferring the present appeal.

3. For the reasons mentioned in this interlocutory application, we are satisfied that the appellant was prevented from sufficient cause in preferring this appeal within time.

4. Accordingly, this interlocutory application is allowed and the delay in filing this appeal is hereby condoned.

In L.P.A. No. 1476 of 2018

Heard learned counsel for the respective parties.

2. The present L.P.A. is directed against the judgment dated 29.08.2018 passed in CWJC No. 4916 of 2018 by the learned Single Judge of this Court whereby and whereunder the civil writ petition filed by the appellant has been dismissed.

3. Brief facts of the case is that in the month of May, 1962, the marriage of the appellant was solemnized with Ajab Lal Pandit "Neelkusum" and from the wedlock, a daughter, namely Archna Kumari, was born in the year 1987. The said Ajab Lal Pandit "Neelkusum" was working as Lecturer in S.S.V. College, Kahalgaon on being appointed on 02.07.1977. In the year 1986, the husband of the appellant filed Matrimonial Case No. 12 of 1986 for dissolution of his marriage by a decree of divorce. The learned District Judge vide ex-parte order dated 16.04.1988 allowed the petition by granting decree of divorce. After obtaining decree of divorce, the husband of the appellant solemnized



marriage with the respondent no.9 on 07.06.1989 and out of that wedlock, a daughter was born. The appellant filed Marriage Case No. 31 of 1989 before the learned District Judge, Bhagalpur for revocation of the decree of divorce passed against her. During the pendency of the aforesaid marriage case, the husband of the appellant died on 08.11.1992. The learned District Judge vide order dated 29.01.1993 dismissed the aforesaid marriage case on account of death of her husband. Thereafter, the appellant filed Misc. Appeal No.174 of 1993 before this Court, which was also dismissed on the same ground vide order dated 10.05.1994. The appellant filed several representations before the authority concerned for redressal of her grievances, but when no communication was received from the respondent authority, the appellant sought information under the Right to Information Act about status of her representations as well as the status of death-cum-retiral benefits of Late Ajab Lal Pandit. Thereafter, the University supplied the information vide letter dated 05.05.2012 wherein she was informed that all the death-cum-retiral benefits and also the compassionate appointment had been given to the private respondent, who claimed to be 2nd wife of Late Ajab Lal Pandit "Neelkusum". Being aggrieved, the petitioner (appellant herein) preferred CWJC No.4916 of 2018. The learned Single Judge, finding the writ petition totally misconceived, dismissed the



appellant's writ petition. Hence, the present L.P.A.

4. The learned counsel for the appellant has submitted that the appellant never remarried after the ex-parte decree of divorce and tried to get at least half share of Late Ajab Lal Pandit pensionary benefit including gratuity, leave encashment, group insurance amount etc., but the University only assured her and not paid anything despite the appellant submitting the succession certificate dated 23.01.1993. He has further submitted that the appellant is a rustic lady having little means of income and has now grown very old as such she requires financial support from her husband's property which includes death-cum-retiral benefit of Late Ajab Lal Pandit, at least half of the same on account of being not married till date.

5. *Per contra*, the learned counsel for the respondents has submitted that ex-parte decree of divorce was passed by the learned court after due notice to the appellant and upon examination of the whole case including the evidence of the witnesses. The appellant did not challenge the ex-parte decree of divorce during the life time of Late Ajab Lal Pandit "Neelkusum". The respondent no.9 solemnized marriage with Late Ajab Lal Pandit "Neelkusum" on 07.06.1989 after the decree of divorce was passed. The learned counsel for the respondent no.9 has submitted that one daughter was born out of the said wedlock of Kumari



Nirmala Sah with Late Ajab Lal Pandit “Neelkusum”. The respondent no.9 and her daughter have been nominated by Late Ajab Lal Pandit in the service records. The respondent University has rightly not released any payment in favour of the appellant.

6. Having considered the material available on record and further considering the rival submission, the fact becomes clear that the appellant was the first wife of Late Ajab Lal Pandit “Neelkusum” and after getting decree of divorce against her, he had married with respondent no.9 and till date, the decree of divorce stands and it has not been set aside by any competent court.

7. Moreover, from the service records of the deceased employee namely, Late Ajab Lal Pandit “Neelkusum”, which has been brought on record by the respondent no.9 by filing a second supplementary counter affidavit, it transpires that in column no.5, which is with regard to marital status, it has been mentioned that “*I have a wife*”. In column no.7, which is with regard to nomination for GPF, the names of Smt. Kumari Nirmala Sah (wife) and Kumari Aprajita Kashyap (daughter) have been mentioned. Similarly, in column no.9, which is with regard to nomination for D.C.R. gratuity and family pension, the names of Smt. Kumari Nirmala Sah (wife) and Kumari Aprajita Kashyap (daughter) have been mentioned as nominees. If the name of the



appellant has not been mentioned as nominee in the service book of late Ajab Lal Pandit “Neelkusum” for receiving post death benefits, the appellant could not lawfully claim any such benefit and she is not entitled for the same.

8. In the light of discussion made hereinabove and under the facts and circumstances of the case, it cannot be said that the learned Single Judge has committed any error which calls for interference by this Court in exercise of the appellate jurisdiction. We are in agreement with the view taken by the learned Single Judge.

9. Accordingly, the present Letters Patent Appeal is dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	A.F.R
CAV DATE	NA
Uploading Date	23.01.2023
Transmission Date	NA

