

11.10.2023
SL No.21
Court No.8
(gc)

MAT 1730 of 2023
CAN 1 of 2023

Sujata Halder
Vs.
Kusum Halder & Ors.

Mr. Lakshminath Bhattacharya,
...for the Appellant.

Mr. N. C. Bhandary,
...for the Writ petitioner/
Respondent No.1.

Mr. Pinaki Dhole,
Mr. Avishek Prasad,
...for the State.

1. This appeal is arising out of the order dated 28th August, 2023 by which the respondent No.7, the appellant herein, was restrained from receiving the family pension.
2. We have heard the learned Counsel for the appellant. The first grievance of the appellant is that she was not allowed to be represented by Mr. Lakshminath Bhattacharya, Advocate. The appellant reaffirms her faith in the learned Advocate.
3. Accordingly, we request the learned Single Judge to allow Mr. Lakshminath Bhattacharya to represent the respondent No.7/appellant in the pending proceeding.
4. It further appears that the appellant was a nominee in the service record. It is well-settled that the nominee does not have any

beneficial interest in the amount received. The nomination indicates the hand which is authorized to receive the amount. A nominee cannot be treated as being equivalent to an heir or legatee. (***see Smt. Sarabati Devi & Anr. Vs. Smt. Usha Devi reported at AIR 1984 SC 346: 1984 (1) SCC 424***). The nominee is only entitled to receive the amount for the benefit of the persons who are entitled to it under the law of succession. (***See Vishin N. Kanchandani & Ors. Vs. Vidya Lachmandas Khanchandani & Ors. reported at 2000 (6) SCC 724***).

5. Mr. Bhandary has relied upon a matrimonial suit filed by the husband of the writ petitioner in the year 1985 to show that the writ petitioner is a legally married wife of Rabindra Nath Halder.
6. During the subsistence of the first marriage, the second marriage is not permissible in law. However, it would be open for the learned Single Judge to form an opinion about the legal status of the parties as we feel that the better course of action would be to decide the said issue in a properly instituted civil suit for

declaration of status if such right is clouded.

7. With the aforesaid observation, the appeal and the application stand disposed of.

8. However, there shall be no order as to costs.

9. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)