

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7312 of 2022

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Sushila Devi W/o Ram Pavitra Singh, resident of Village - Gangeya, P.S.-
Katra, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Old Secretariat, Patna.
2. The District Magistrate, Muzaffarpur.
3. The Sub-Divisional Officer, East, Muzaffarpur.
4. The District Supply Officer, Muzaffarpur.
5. The Block Supply Officer, Katra (Muzaffarpur).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raju Kumar, Advocate.
For the Respondent/s : Mr. S. Raza Ahmad, AAG-5.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

13 12-03-2024 Heard learned counsel for the parties.

2. The present Writ Petition has been filled for the
following reliefs:-

(i) To issue an appropriate order/s, directing/s including a writ preferably in the nature of certiorari for quashing the Memo No. 228 dated 05-01-2022 issued by the Block Development Officer, Katra (hereinafter referred to as Respondent No. 05) whereby and where under the husband of the petitioner (since dead) has been called upon to deposit a sum of Rs. 2,79,480/- against food in short left over 204 quintal grains under Samporna Gramin Yojna (S.G.R.Y.) and National food for work programme (N.F.F.W in short) remained



undistributed.

(ii) To direct the respondent no. 03 (hereinafter referred to as S.D.O. East, Muzaffarpur) to abide by the decision if taken by the State Government on the basis of Hon'ble Mr. Justice Uday Sinha (retired) enquiry commission Report in the aforesaid matter.

(iii) To direct the respondents comply with the order dated 05-10-2018 passed in CWJC No. 308 of 2013 analogous cases by which authorities have been refrained from taking coercive measures against the petitioner until decision is taken by the State government.”

3. Learned counsel appearing on behalf of the petitioner has stated that the husband of the petitioner was appointed as PDS dealer in the year, 2006 and continued till his death in the year, 2017. That the authority concerned on the ground that the husband of the petitioner is due some amount against the food-grains that were found to be short and remained undistributed under the Samporna Gramin Yojna (S.G.R.Y.) and National food for work programme (N.F.F.W.) has issued a show cause notice to the petitioner. That the husband of the petitioner died on 23.03.2017 and the factum of his death was brought to the notice of the authorities. However, the impugned order dated 05.01.2022 bearing Memo No. 228 had been passed by the Block Development Officer, Katra in the name of the



dead person. Learned counsel has stated that any order passed against a dead person is void and non-est in the eye of law. That the petitioner, who is the widow of the deceased PDS licence holder cannot be made liable for the dues, if any, of her late husband in his personal capacity. Therefore, the learned counsel has prayed this Court to allow the present writ petition by setting aside the impugned order dated 05.01.2022 bearing Memo No. 228.

4. Per contra, learned counsel appearing on behalf of the respondents has vehemently opposed the very maintainability of the present writ petition. Learned counsel has stated that pursuant to the enquiry report submitted by the Hon'ble Mr. Justice Uday Sinha (Retired) the authorities have taken a decision to recover the amounts due from the PDS licence holder where the food-grains which are given for the purpose of Samporna Gramin Yojna (S.G.R.Y.) and National food for work programme (N.F.F.W.) were found to be short. That the authorities duly taking into consideration the documents and the report of the Hon'ble Mr. Justice Uday Sinha (Retired) has directed the husband of the petitioner to deposit an amount of Rs. 2,79,480/-. The death of the husband of the petitioner was not known to the authority concerned, therefore,



the order is passed in the name of the dead person. Learned counsel has stated that the husband of the petitioner had misappropriated the food-grains which were supplied for the purpose of Samporna Gramin Yojna (S.G.R.Y.) and National food for work programme (N.F.F.W) and therefore, the authorities were having every right to recover the misappropriated amounts from the estate of the husband of the petitioner. That the petitioner being a widow of the PDS licence holder is also liable to return the misappropriated amounts and prayed this Court to dismiss the present writ petition.

5. A perusal of the impugned order shows that the same is addressed to one Ram Pavitra Singh, PDS dealer and not in the name of the petitioner herein. The said Ram Pavitra Singh is none other than the husband of the petitioner. The fact that the husband of the petitioner died on 23.03.2017 has not been disputed by the respondents herein. Moreover, the death certificate filed by the petitioner clearly reveals that the said Ram Pavitra Singh had died on 23.03.2017. The Hon'ble Supreme Court in the case of ***N. Jayaram Reddy vs. Revenue Divisional Office reported in (1979) 3 SCC 578 at page 584*** has held as under:-

“The basic fact remains that a decree against a dead person is treated as a



nullity because it cannot be allowed to operate against his legal representative when he was never brought on the record to defend the case. Any other view would not be possible or permissible for it would fasten on him a liability for which he did not have any hearing. So while the law treats such a decree as a nullity qua the legal representative of the deceased defendant or respondent, there is nothing to prevent him from deciding that he will not treat the decree as a nullity, but will abide by it as it stands, or as it may be mollified thereafter on appeal----."

6. Having regard to the above and settled legal position, this Court is of the opinion that the order impugned in the present writ petition which is passed against a dead person is void and non-est in the eye of law and therefore, the same is liable to be set aside and the same is accordingly set aside. However, it is made clear that this order does not preclude the authorities from taking any necessary steps for recovery of the amounts due, if any, from the estate of the original PDS licence holder.

7. With the above directions, the present writ petitioner stands **allowed** to the extent indicated.

(A. Abhishek Reddy, J)

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