

Munni Devi Vs. Police

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Court : Jharkhand

Decided On : Nov-18-2017

Appellant : Munni Devi

Respondent : Police

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) No. 5147 of 2013
----- Munni Devi, W/o Late Rampravesh Singh, R/o Jhinhri, P.O. + P.S. - Town,
District -Giridih. ... Petitioner Vs.

1. The State of Jharkhand 2. Director Inspector General of Police, Deoghar, Jharkhand 3. Superintendent of Police, Deoghar, Jharkhand 4. Accountant Officer, Account Branch, Superintendent of Police Office, Deoghar 5. Most. Manju Devi, W/o Late Rampravesh Singh, R/o Anuwa, P.O. Anuwa, P.S. Karpi OP, Bansi Surajpur, Dist - Arwal, State -Bihar ... Respondents With W.P.(S) No. 5718 of 2013
----- Manju Devi, wife of Late Ram Pravesh Singh, resident of village Anua Anchal, P.O. - Anua, P.S. -Karapi, Distt. -Arwal (Bihar) ... Petitioner Vs.

1. The State of Jharkhand 2. Inspector General of Police, Dumka Range, Santhal Pargana Dumka, P.O.+ P.S. & District -Dumka.

3. Deputy Inspector General of Police, Santhal Pargana Prakshetra Dumka, P.O. + P.S. & District -Dumka.

4. The Superintendent of Police, Deoghar, P.O. + P.S. & District -Deoghar 5. The Accountant General, Jharkhand, P.O. & P.S. -Doranda, Ranchi ... Respondents ----- CORAM: HONBLE MR. JUSTICE ANIL KUMAR CHOUDHARY ----- For the Petitioner : Mr. Tarun Kr. Sinha, Advocate (in W.P.(S) No. 5147 of 2013) : Mr. Birat Kumar, Advocate (in W.P.(S) No. 5718 of 2013) : Mr. Gautam Kumar, Advocate (in W.P.(S) No. 5718 of 2013) For the Respondent nos. 1 to 4: Mrs. C. Prabha, S.C. IV (in W.P.(S) No. 5147 of 2013) : J.C. to S.C. IV (in W.P.(S) No. 5147 of 2013) : J.C. to A.G. (in W.P.(S) No. 5718 of 2013) For the Respondent no.5 : Mr. Birat Kumar, Advocate (in W.P.(S) No. 5147 of 2013) : Mr. Gautam Kumar, Advocate (in W.P.(S) No. 5147 of 2013) : Mr. Suresh Kumar, Advocate (in W.P.(S) No. 5718 of 2013) ----- 06/ Dated:

18. h November, 2017 Per Anil Kumar Choudhary, J.

: Heard the parties.

2. Since the subject matter of dispute of W.P.(S) No. 5147 of 2013 and W.P.(S) No. 5718 of 2013, hence both the writ petitions are disposed of by this common order. The petitioner of W.P.(S) No. 5147 of 2013 claims to be second wife of the deceased - Constable Rampravesh Singh, where as it is the admitted case of the petitioners of both the writ petitions, that the petitioner of W.P.(S) No. 5718 of 2013 who is also the respondent no. 5 of W.P.(S) No. 5147 of 2013 is the first wife of the deceased Rampravesh Singh. The petitioner of W.P.(S) No. 5147 of 2013 has filed this writ petition claiming that an agreement dated 12.07.2010 has been entered into by the petitioner of W.P.(S) No. 5147 of 2013 and the respondent no.

5. Hence, the petitioner W.P.(S) No. 5147 of 2013 claims that out of the amount of death- cum-retiral benefit of Rampravesh Singh, she should be paid Rs. 2,70,000/- , in terms of the agreement which has been annexed as annexure -2 to W.P.(S) No. 5147 of 2013.

3. The learned counsel for the respondent no.5 of W.P.(S) No. 5147 of 2013 submits that in paragraph no.7 of her counter affidavit in W.P.(S) No. 5147 of 2013, the respondent no.5 has categorically averred that she has never entered into the agreement, copy of which is annexed as annexure -2 of the said writ

petition and her signature also does not appear on the said annexure -2. It is further, submitted by the learned counsel for the respondent no.5 of W.P.(S) No. 5147 of 2013, that the petitioner of W.P.S. No. 5147 has never been the wife of Rampravesh Singh at any point of time and in support of her contention she has filed several documents including voter list.

4. Per contra, the learned counsel for the petitioner of W.P.(S) No. 5147 of 2013 submits that in annexure -1 of the writ petition, which is the order dated 20.06.2009 of the Superintendent of Police, Deoghar, the Superintendent of Police, Deoghar has ordered that in terms of the order of the Principal Judge, Family Court, Giridih, in case no. 117/01, arrear maintenance for 36 months amounting to Rs. 28,800/- be deducted from the salary of Rampravesh Singh and be credited to the account of the petitioner and further every month a sum of Rs. 800/- is to be deducted from the salary of Rampravesh Singh and be credited to the account of the petitioner. The learned counsel for the petitioner further relied upon the Judgment of this Court in the case of Anita Devi Vs. The State Agriculture Marketing Board & Others, reported in 2014 (1) JLJR88 wherein, in the facts and circumstances of that case where the first wife filed an affidavit expressing her consent for paying half of the amount of retiral benefits and other amount to the second wife, a division bench of this Court held that as the first wife has given her consent for paying the half of the death-cum-retiral dues, there is no impediment for the first respondent of that case to pay half of the amount to the appellant of that case and submitted that the ratio of Anita Devis case (Supra) is applicable to this writ petition.

5. It is pertinent to mention here that the facts of this case are entirely different from Anita Devis case (Supra). Here the wife of Late Rampravesh Singh - Respondent no.5 of W.P.(S) No. 5147 of 2013 is not even admitting that the petitioner of W.P.(S) No. 5147 of 2013 is the second wife of Rampravesh Singh, let alone giving her consent for payment of Rs. 2,70,000/- to her. She refuses to share even a farthing of the retiral dues payable on account of Late Rampravesh Singh with the petitioner. So certainly the ratio of Anita Devi (Supra) is not applicable in the facts and circumstances of this case.

6. Since disputed question of facts is involved in both the writ applications, this Court while exercising jurisdiction under Article 226 of the Constitution of India cannot decide the genuineness of the claim of either of the petitioners of these writ petitions.

7. Accordingly, both the writ petitions are disposed of with the observation that the petitioners of both the writ petitions, if so advised, may approach the appropriate court of law for payment of the death-cum-retiral benefit of Late Rampravesh Singh. (Anil Kumar Choudhary, J.) Sonu/-

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