

29 08.03
2024

Ct. No. 04

ab

SAT 268 2022
IA No. CAN 2 of 2023

Smt. Minati Ruidas
Vs.
Smt. Arati Ruidas and others.

Mr. Debasis Sur,
Mr. Angshuman Patra;

... for the appellant.

Mr. Tanmay Chowdhury,
Ms. Ritopria Ghosh.

... for the respondents.

The appeal shall be heard on the following substantial questions of law:

- (1) Whether the pensionary and other retiral benefits can be denied to a nominee solely on the ground that she is not a legally wedded wife?**
- (2) Whether both the Courts below were justified in directing the disbursement of the entire death benefits to the plaintiffs/respondents thereby ignoring the fact that the children of the defendant/appellant were also begotten through the deceased employee and to be treated as legitimate child under Section 16 of the Hindu Succession Act?**

Re: CAN 2 of 2023

This is an application for stay of the operation of the impugned order until disposal of the instant appeal.

The dispute involved in the litigation is hovering around the pensionary benefits, other service benefits and/or benefits payable to the family because of the untimely death of the employee while in service. Both the parties led their claim and it does not appear any dispute

to the fact that the plaintiff/respondent no. 1 is the first wife and the defendant/appellant being the second.

By the impugned judgment and decree, the Appellate Court directed the entire family pension to be given to the first wife as well as her children and further directed disbursement of the death benefits amongst the plaintiffs/respondents as well as the proforma respondent, who appears to be the child of the plaintiff/respondent no. 1.

Even after taking into consideration as well as the fact that the deceased employee nominated the appellant in his service book, the appellate court proceeded to pass the said order for which we have already admitted the appeal.

Any disbursement made during pendency of the appeal would render the instant appeal infructuous. Equally, we cannot ignore that so far as the family pension is concerned, it is debatable as to whether the same would be extended to the appellant or not and, therefore, we do not intend to make any observation thereupon. However, we find if any disbursement of the death benefits or other benefits is made by the Postal Authority, it would cause immense injury to the appellant and, therefore, an interim protection is warranted.

Accordingly, there shall be an order of injunction against the Postal Authority not to disburse the death benefits to either of the parties until disposal of the instant appeal.

The application for stay being CAN 2 of 2023 is disposed of.

Let the hearing of the appeal be expedited.

Since the plaintiffs/respondents have entered appearance, service of notice of appeal upon them stand dispensed with. The appeal is ready as regards service so far as the plaintiffs/respondents are concerned.

So far as the service upon the other respondents is concerned, the same is dispensed with at the risk of the appellant.

Let the Lower Court's Records be called for through the Special Messenger at the cost of the defendant/appellant. Such cost shall be put in within a week from date.

Immediately, after arrival of the Lower Court's Records, office shall examine the same and if found complete, shall issue notice of arrival of Lower Court's Records on the Advocate-on-Record of the defendant/appellant under Rule 12 of Chapter IX of the Appellate Side Rules.

The defendant/appellant is directed to prepare and file eight copies of informal paper books – printed, typewritten or cyclostyled, as the case may be – out of court, within a period of four weeks from date.

All other formalities regarding preparation of paper books are dispensed with.

After fulfillment of all other formalities, the office shall put a certificate that the appeal is otherwise ready for hearing and liberty is given to the parties to pray for early disposal of the appeal.

(Harish Tandon, J.)

(Madhuresh Prasad, J.)

