

ITEM NO.101

COURT NO.6

SECTION XVI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 9341/2010

STATE OF BIHAR & ORS.

Appellant(s)

VERSUS

BIBHA SINGH (DEAD)

Respondent(s)

(IA No. 141619/2021 - APPLICATION FOR CONDONATION OF DELAY IN
FILING THE APPLICATION FOR SETTING ASIDE THE ABATEMENT
IA No. 141614/2021 - APPLICATION FOR SUBSTITUTION
IA No. 141615/2021 - CONDONATION OF DELAY IN FILING SUBSTITUTION
APPLN.
IA No. 141617/2021 - SETTING ASIDE AN ABATEMENT)

Date : 16-08-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HRISHIKESH ROY
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Appellant(s) Mr. Abhinav Mukerji, AOR
Mrs. Bihu Sharma, Adv.
Ms. Pratishtha Vij, Adv.
Mr. Akshay C. Shrivastava, Adv.

For Respondent(s) Mr. Santosh Mishra, AOR
Ms. Shuchi Bharti, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Delay in filing application for setting aside the abatement is condoned. Abatement is set aside.
2. Delay in filing substitution application is condoned.
3. Heard Mr. Abhinav Mukerji, learned counsel appearing for the appellant i.e. State of Bihar and also heard Mr. Santosh Mishra,

learned counsel appearing for the respondents.

4. I.A. No. 141614/2021 is filed for substitution of legal heirs of the deceased sole respondent (Bibha Singh) who died on 26.9.2020. We have perused the averments in the application and order for impleadment of the legal heirs as mentioned in paragraph No.4 of the application. In this context, Mr. Santosh Mishra, learned counsel points out that Mr. Harsh Singh, son of the deceased has pre-deceased her and therefore in substance, the deceased respondent viz. Bibha Singh is survived by only three legal heirs.

5. Taking the above into consideration, the substitution application is allowed and impleadment of Gautam Singh, Zorawar Wadia Singh and Udayan Singh are permitted as legal heirs of late Bibha Singh. Necessary correction of the cause title be made.

6. Mr. Santosh Mishra, learned counsel prays for and is granted four weeks' time to file vakalatnama on behalf of the said three legal heirs.

7. On 03.8.2023, following order was passed by us:-

"1. This matter pertains to reimbursement of the medical expenses incurred for the treatment of the husband of the respondent. The patient has passed away on 26.01.2005 during the pendency of the appeal. We are told that even the respondent has since passed away on 26.09.2020.

2.The Division Bench of the High Court under the 18.03.2008 impugned judgment declared that the respondent is entitled to reimbursement of the medical expenses along with related expenses since the

facility of the liver transplantation was not available in India as was opined by the AIIMS, Delhi. This Court has not stayed the High Court judgment and therefore on 26.07.2022, time was granted to the counsel for the State of Bihar as to whether the judgment of the Division Bench of the High Court has been complied with by the appellants or not.

3. Today when the case is called out, Mr. Mohit Prasad, learned counsel appears for the appellants, but although the specific query was made by this Court as far back as on 26.07.2022, the State's counsel has no information on whether the entitled amount was disbursed to the claimant. Time was given today in the forenoon to the learned counsel to obtain instructions and he submits that although calls were made, the concerned officer has failed to furnish requisite information.

4. This is indeed an unsatisfactory state of affairs. Be that as it may, on the request of the State's counsel, the matter is deferred to 09.08.2023 as the final opportunity to the appellants to take appropriate steps in the matter.

5. List again on 09.08.2023."

8. In pursuance to the above order, Mr. Abhinav Mukerji, learned counsel has received instructions from the Additional Chief Secretary, Health Department and produces the letter dated 08.8.2023. Adverting to the letter, Mr. Mukherji submits that sanction is accorded by the Health Department to re-imburse the medical expenses in terms of the Order passed by the Division Bench of the High Court on 18.3.2008. But the payment is made subject to

the result of this appeal. It is then submitted that the disbursement is to be made by the Secretary of the Bihar Vidhan Sabha, Patna and now that the legal heirs are substituted, the same would be disbursed as per their entitlement, in terms of the High Court judgment dated 18.3.2008.

9. Mr. Santosh Mishra, learned counsel who has instructions to represent the legal heirs submits that the disbursement be made to Mr. Udayan Singh, the youngest son of the deceased.

10. Proceeding with the above, as the Health Department has already consented to sanction the amount, the Secretary of the Bihar Legislative Assembly as the disbursing authority is directed to reimburse the expenses incurred on the treatment of the late Sh. Dinesh Kumar Singh ex-Member of the Bihar Legislative Assembly in terms of the judgment dated 18.3.2008. The needful including disbursement of the amount should be done within six weeks from today. Appropriate endorsement be made at the time of disbursal that this is subject to outcome of the present appeal.

11. A Copy of this order be furnished to Mr. Abhinav Mukerji for communication to all concerned.

12. The matter be re-listed on 11th October, 2023.

(RASHMI DHYANI PANT)
COURT MASTER (SH)

(KAMLESH RAWAT)
ASSISTANT REGISTRAR