

(2015) 02 PAT CK 0127

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 6021 of 2009 with Interlocutory Application No. 1241 of 2015

Binod Kumar Gupta

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 23-02-2015

Acts Referred:

Citation : (2015) 2 BBCJ 81

Hon'ble Judges : Birendra Prasad Verma, J.

Bench : Single Bench

Advocate : Mr. Rajesh Sinha and Mr. Sanjeev Kumar, Advocates, for the Petitioners; Mr. Anil Singh and Mr. Dharendra Kumar, Advocates, for the Respondents

Final Decision : Dismissed

Judgement

Birendra Prasad Verma (Oral) - Heard the parties.

2. The original writ petitioner Binod Kumar Gupta had filed the main writ petition seeking a direction to the respondents to prepare the final bills and pay him about Rs. 39,000/- for the works already done by him under a contract with the respondents and the functionaries of the Eastern Railway, Kolkata.

3. Learned counsel appearing on behalf of the petitioner submits that during the pendency of the present writ petition, sole petitioner Binod Kumar Gupta died on 22.01.2010 leaving behind him his heirs and legal representatives, fully detailed in paragraph-3 of the I.A. No. 1241 of 2015. According to him, the widow has filed the aforesaid I.A. No. 1241 of 2015 seeking her substitution in place of the original writ petitioner and to permit her to prosecute the present writ petition.

4. In the facts and circumstances of the case, prayer for substitution is allowed. Smt. Mira Devi, widow of original writ petitioner Binod Kumar Gupta is substituted in place of original writ petitioner and she is permitted to prosecute this litigation. Accordingly, I.A. No.1241 of 2015 is finally disposed of.

5. With the consent of the parties, main writ petition i.e. C.W.J.C. No.6021 of 2009 has been taken up for consideration on merit. The claim of the petitioner is for payment of contractual dues for the works done by the original writ petitioner during the period from 01.04.1987 till 07.06.1988 when the measurement was allegedly taken.

6. The present writ petition was filed on 12.05.2009, i.e. after more than 20 years of the alleged date of measurement on 07.06.1988 for the works allegedly completed by the original writ petitioner. In the counter-affidavit filed on behalf of the respondents the claims of the writ petitioner have been disputed on the ground that the measurement book as also the bills in question were never submitted and they do not bear the signature of the competent authorities.

7. After having heard the parties, this Court is of the opinion that the reliefs sought for on behalf of the petitioner cannot be granted on two grounds; firstly the claim for payment of contractual dues was raised after more than twenty years from the date of alleged completion of works by the original writ petitioner and secondly, the claims of the original writ petitioner have not been admitted by the respondents, rather have been seriously disputed.

8. For the reasons recorded above, the writ petition has to fail and is accordingly dismissed, but there shall be no order as to costs.