

(2010) 02 PAT CK 0048
In the Patna High Court

Vimala Devi

APPELLANT

Vs

Employees' provident Fund and Others

RESPONDENT

Date of Decision : 04-02-2010

Acts Referred:

Citation : (2010) 02 PAT CK 0048

Hon'ble Judges : Shiva Kirti Singh, J;C.M. Prasad, J

Bench : Division Bench

Judgement

Shiva Kirti Singh and C.M. Prasad, JJ.—Heard learned Counsel for the appellant/writ petitioner and learned Counsel for the respondent Nos. 1 & 2, the Employees' Provident Fund through its Central Provident Fund Commissioner, New Delhi and Regional Provident Fund Commissioner, Mumbai.

2. It has been submitted on behalf of the appellant that in the writ proceeding respondent Nos. 1 & 2 had already appeared and filed their counter affidavit but still the writ Court preferred to dismiss the writ petition vide order under appeal dated 27.02.2009 on the ground that no cause of action had arisen within the territorial jurisdiction of this Court. Learned Counsel for the appellant did not dispute that the contribution towards provident fund deducted by the employer of appellant's husband was from Patna Office and was being deposited with the Mumbai Office of the Provident Fund Commissioner, where the appellant's husband was a registered subscriber. The Cause of action has been claimed to be within the jurisdiction of this Court on the ground that Regional Office of Press Trust of India, at Patna used to make the deduction towards Provident Fund from the salary of appellant's husband and therefore part of cause of action should be treated to have arisen within the jurisdiction of this Court.

3. Learned Counsel for the appellant further submits that appellant is a widow of late Rajdeo Ram, a resident of Harizan Colony, P.S. Budha Colony, Patna and she has no means to pursue the litigation at Mumbai or Delhi and this Court should help her to get the proceeds of provident fund on account of death of her husband.

4. Learned Counsel for the respondent Nos. 1 & 2 has submitted that since the registered account of appellant's husband is at Provident Fund Office, Mumbai, the cause of action on account of alleged inaction by that authority has arisen outside the territorial jurisdiction of this Court. However, he fairly submitted that in the counter affidavit it has been categorically stated on behalf of these respondents that for the provident fund account in question the first wife of the employee namely, Sita Devi was the nominee and hence, the appellant/writ petitioner is required to file documents in respect of her claim that Sita Devi is dead but she has not filed death certificate or any substantial document to that effect. On the other hand, learned Counsel for the appellant has stated that being a poor illiterate woman and not knowing even the exact date of death of Sita Devi the appellant is not in a position to get death certificate of Sita Devi under ordinary circumstances. It was further submitted that the appellant has already been paid provident fund and gratuity by the Press Trust of India accepting her claim that she is widow of late Rajdeo Ram and the first wife Sita Devi is no more.

5. In the facts of the case, we are not inclined to go into the technicality of territorial jurisdiction in the simple facts relating to the claim as noticed above. The only option for the appellant is to supply the required documents as demanded by the respondents or else the appellant should obtain necessary declaration or succession certificate from the Civil Court and furnish the same to the concerned respondents for claiming their proceeds of provident fund from them. It is expected that the concerned respondents shall appreciate the hardship of illiterate poor widow and extend necessary help by guiding her and advising what alternative documents will be sufficient to support her claim. The appellant will be free to correspond with the concerned respondents and supply the necessary particulars and in that event her claim must be disposed of in accordance with law without any delay.

6. This appeal is accordingly disposed of.