

Lucknow this the 16th day of Sept., 99.

HON. MR. D.C. VERMA, MEMBER(J)

HON. MR.A.K. MISRA, MEMBER(A)

On the death of Raj Kishore Pandey, the applicants of this O.A., his two sons Markandey Pandey and Shambhu Nath Pandey have filed two separate M.Ps. Markandey Pandey has filed M.P. 448/98 AND Shambhu Nath Pandey has filed M.P. 529/98 for substitution. Official respondents have filed objection vide M.PS 851/98 and 852/98. On behalf of S.N. Pandey, M.P. 1217/98 has filed for dismissal of M.P. 448/98 and on behalf of Markandey Pandey M.P. 1207/98 has been filed for dismissal of M.P. 529/98. It is admitted that Markandey Pandey and Shambhu Nath Pandey are the sons of late Raj Kishore Pandey. The learned counsel for the applicant Markandey Pandey submitted that on the basis of a Will, his brother S.N. Pandey, has no share to the amount claimed by way of relief in this O.A. The learned counsel for S.N. Pandey has on the other hand submitted that as S.N. Pandey is also the son of late deceased R.K. Pandey, his right for substitution cannot be denied and the claim of S.N. Pandey to the share on the basis of Will cannot be decided by this Tribunal.

2. The learned counsel for the official respondents has also submitted that all the heirs of R.K. Pandey including the two sons and 4 daughters have to be impleaded as legal heirs of Raj Kishore Pandey. As regards the share, on the basis of a Will or otherwise, is not to be decided at this stage of substitution.

3. We have heard the learned counsel for the parties. We are also of the view that on the death of R.K. Pandey all his legal heirs i.e. the two sons Markandey Pandey and S.N. Pandey and the



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daughters of R.K. Pandey are to be substituted. The wife of R.K. Pandey, it has been admitted during the course of arguments, is already dead. There is no other legal heir except the sons and daughters.

4. In view thereof, we order that both the sons and all the daughters be substituted in place of R.K. Pandey. All the 5 M.Ps as mentioned above are decided accordingly.

5. The amendment be incorporated within a period of 2 weeks. List for orders on 6.10.99.


MEMBER (A)


16/9
MEMBER (J)

Shakeel/

Received copy
Shivash
Now
21-9-99.

Reed
22-9-99

Reed
Shivash
29/09/99

2/2
Non-endorsement
has been done
by HC to applicant
Today:
(A)
20/9/99