

GAHC010089682003



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/10235/2003

ANIL SARMA

VERSUS

THE BANKING OMBUDSMAN and ORS

Advocate for the Petitioner : MR.P K ROY

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 19/06/2023

Heard Mr. P.K. Roy, learned senior counsel assisted by Mr. S. Chakraborty, learned counsel for the writ petitioner.

It appears that this writ petition was earlier disposed of by order dated 06/09/2012. However, due to the order dated 21/04/2023 passed in Review Petition No. 22/2013, this writ petition has been restored to file for re-hearing. The fact, however, remains that the sole writ petitioner, viz. Anil Sarma had expired on 28/08/2016. Although substitution of his legal heirs was made in the review petition on the strength of order dated 28/12/2018 passed in IA(C) No. 445/2018, yet, it is evident that no application for substitution has been filed in the writ petition being WP(C) 10235/2003. As such, due to the death of the sole writ petitioner way back in the year 2016, the writ petition has evidently been abated due to non-substitution of his legal heir(s). Mr. Roy, learned senior counsel for the petitioner further submits that even one of the legal heirs, who was earlier substituted in the review petition,

has expired.

In view of the above, unless appropriate application is filed with a prayer to set aside the abatement of the writ petition with an application for condonation of delay in filing the application for substitution of surviving legal heir(s) of the writ petitioner, this matter cannot be considered on merit.

This Court has also noticed that the basic grievance of the original writ petitioner was that the maturity amount of the fixed deposit created by him during his life time i.e. on 17/05/1994 of a value of Rs. 1,00,000/-, with the Standard Chartered Bank (the then ANZ Grindlays Bank) had not been remitted to his account. However, the stand of the bank is that the maturity amount had been deposited in the SB Account of the writ petitioner upon its maturity.

The learned Banking Ombudsman has rejected the complaint lodged by the petitioner on 16/05/2023, *inter-alia* observing that since the petitioner did not approach the bank enquiring about his Fixed Deposit during the period from 1994 to 2000 and considering the fact that the bank had taken a stand that it had credited the amount, with interest, in the SB Account of the petitioner in the year 1998, no further order was called for in this matter.

Taking note of the facts and circumstances of the case, this writ petition, therefore, stands disposed of, as having abated by operation of law, by granting liberty to the legal heir(s) of the petitioner to file appropriate application for setting aside abatement and / or substitution of his legal heir(s). It will also open for the legal heir(s) of the writ petitioner to approach the Standard Chartered Bank, seeking documentary proof of the fact that the amount involved in the Fixed Deposit noted above, was credited in the SB Account of the deceased petitioner, on maturity.

Needless to say, if such a request made by the legal heir(s) of the writ petitioner is not responded by the bank, in a time bound manner, the same would give rise to a fresh cause of action, which may be agitated by filing appropriate proceeding, if so advised.

With the above observation, the writ petition stands disposed of.

JUDGE

sukhamay

Comparing Assistant