IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2095 OF 2015

Lavina B. Punwaney and Anr.	**}**	**Petitioners**
versus		
The State Bank of India and Anr.	**}**	**Respondents**

Mr. Abhinav Chandrachud with Mr. Hitesh Jain, Ms. Neha Prashant and Ms. Malvika Kalra i/b. M/s. ALMT Legal for the Petitioner.

Mr.Rupesh R. Lonjekar for Respondent No.1.

CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.

DATED :- OCTOBER 21, 2015

P.C. :-

Petitioner No. 1 is a citizen of United States of America and is resident at the address mentioned in the cause title. Petitioner No. 1 is 75 years of age and is the wife of Late Bhagwan Punwaney. Petitioner No. 2 is also a citizen of United States of America and daughter of Petitioner No. 1 and Late Bhagwan Punwaney.

2) The first Respondent is State Bank of India, a public sector banking and financial services company. Second Respondent is the branch manager of the first Respondent bank, managing a branch office. The third Respondent is Union of India.

3) There are term deposit accounts belonging, according to the Petitioners, to them, with the first Respondent bank. It is stated that these 10 term deposit accounts were owned by Petitioner No. 1 and Late Bhagwan Punwaney. Some of them are owned by Petitioner Nos. 1 and 2. The Petitioners claim title to these term deposits and state that upon their maturity, they should have been redeemed in their favour. It is claimed that the title to the same is not disputed. In any event, their operation by the Late Bhagwan Punwaney or survivor and in terms of the banking policy, would not enable the bank to enter into any dispute with regard to the title of the said deposits.

4) While the Petitioners set out the details of these deposits, they state that vide hand written letter dated 25th August, 2008 Late Bhagwan Punwaney instructed Respondent No. 1 to remove the name of his son Rajesh Punwaney. This letter is relied upon to state that the name of Rajesh was to be removed from the accounts. Annexure 'A' is a copy of this letter at page 27 of the Petition paper book. This request was followed up from time to time. The bank removed, on 16th September, 2008, Rejesh's name from the above accounts. Thereafter, on 6th May, 2012, similar request was made in writing by Bhagwan Punwaney and pertaining to accounts, details of which are mentioned in the letter of 6th May, 2012 (Annexure 'B'). Then, relying upon a

conversation between Late Bhagwan Punwaney and the first Respondent, the name of Rajesh was removed from the term deposit accounts mentioned in para 3.5 of the Petition. Though the name was removed, as claimed by the Petitioners, the first Respondent continued to issue account certificates bearing the name of both, Bhagwan and Rajesh until it discovered its error till 2014. Reliance is placed upon Annexure 'C' in that behalf.

5) It has then been set out in the Petition as to how written instructions were abided sometimes completely and on occasions not fully but partially by the first Respondent bank. However, we are not concerned with this issue simply because on 23rd February, 2015, the Petitioners approached the first Respondent and requested to redeem their term deposits and to wire the full redemption proceeds to their respective accounts. The Petitioners were ready and willing to pay interest and penalty. On 26th March, 2015, the second Respondent addressed a letter to Rajesh Punwaney stating that all accounts of Late Bhagwan Punwaney stand in the name of Petitioner No. 1 and Petitioner No. 1 had requested Respondent No. 2 to withdraw funds from the accounts. Rajesh Punwaney was advised to obtain necessary orders from competent Court of law, else the bank would accept the request of the Petitioners.

6) It is in these circumstances that some pending legal proceedings instituted by Rajesh in the New York County Supreme Court in the United States, wherein he claimed title to these deposits, resulted in orders made from time to time. The Petitioners rely upon the fact that on 3rd April, 2015, Rajesh moved an application in the pending proceedings, but the Petitioners pursued their request made to the bank. The correspondence in that regard has been relied upon.

7) The Petitioners claim that the first Respondent has not redeemed the deposits although it has not been served with a restraint order in favour Rajesh and against the bank or the Petitioners. The Petitioners therefore claim that there is no reason for the bank to hold on to these term deposits despite their maturity and refuse to redeem the same.

8) The Bank, according to the Petitioners, was fully protected in terms of the policy circular of Reserve Bank of India. Without causing any financial hardship to the Petitioners, but at the same time by protecting its interests, the bank could have taken the above action. It is the failure of the bank, which has resulted in this Writ Petition. On the earlier occasion, we had adjourned the matter at the request of the first Respondent bank and to enable its Advocate to take instructions. Today, when the matter is placed for admission, neither any affidavit

has been filed, but on oral instructions, the bank's Counsel states that the bank would abide by appropriate orders and directions of this Court. At the same time, a grievance is made that the Petitioners and the said Rajesh Punwaney are locked in legal proceedings abroad. The said Rajesh was a necessary party to this Petition.

9) After having heard the Counsel appearing for parties, we are of the opinion that this court is not concerned with any title dispute and stated to be pending between the Petitioners and Rajesh Punwaney in the competent Court in United States of America. The title to the moneys and to whom they should be paid ought not be a matter of concern for bankers. Unless and until there is a specific restraint order, by which the bank cannot discharge its normal banking functions nor is able to act in the ordinary and regular course of its business, the refusal of the above nature is not legally justified. As held by the Hon'ble Supreme Court, in a decision reported in **AIR 1991 SC 247** in the case of *M/s. Hyderabad Commercials vs. Indian Bank and Ors.*, there is a certain sanctity attached to a contractual arrangement between a nationalised bank and its customer. The bank cannot in the garb of a alleged title dispute refuse to abide by its contractual obligation with a customer. The circumstances provided for in law alone would sustain a refusal and not otherwise. Such is not the case before us.

10) The Petitioners have throughout been taking up the matter by their own letters and that of their Attorneys in India. On page 36 of the Petition, there is a letter addressed by the first Respondent bank dated 26th March, 2015 to Petitioner No. 1. The bank itself states that in view of the diverse claims, it has intimated Mr. Rajesh Punwaney about the fact that all the accounts of Late Bhagwan Punwaney stand in the name of Petitioner No. 1 as being survivor. If Rajesh is aggrieved, he may approach competent Court of law for redressal of his grievances. The bank has given 15 days time from the letter dated 26th March, 2015 to Rajesh to obtain necessary orders with regard to the amount lying with the bank in all eight accounts.

11) After having addressed such a letter to Petitioner No. 1 and thereafter the bank failing to inform the Petitioners about any restraint order favouring Rajesh or against the Petitioners or the bank passed by the competent Court in United States of America, then, it could have sought appropriate protection if necessary from the Petitioners and released these sums by redeeming the accounts.

12) After having heard both sides and perusing the Petition and the Annexures, we are of the view that interest of justice would be served if the Writ Petition is disposed of with a direction to Respondent Nos. 1 and 2 to redeem the deposits and release the sums in terms

thereof in favour of the Petitioners, on the Petitioners' furnishing a Indemnity Bond in favour of Respondent Nos. 1 and 2 indemnifying them against all legal actions and proceedings in India and abroad and which may be pending or may be initiated by Rajesh. Ordered accordingly. On execution of such Indemnity Bond and with the above terms and conditions, the bank shall release the sums as directed above.

13) The Writ Petition is allowed in these terms, but without any order as to costs.

(B.P.COLABAWALLA, J.) **(S.C.DHARMADHIKARI, J.)**