

CWP No. 4697 of 2012

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 4697 of 2012(O&M).
Date of Decision : 08.09.2015.**

Narinder Singh and another **...Petitioners**

Versus

Punjab National Bank and another **...Respondents**

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. Rajinder Sharma, Advocate for the petitioners.

Mr. B.S. Bhatia, Advocate for the respondents.

Paramjeet Singh, J.(Oral)

The instant petition has been filed under Articles 226/227 of the Constitution of India for quashing the order dated 11.03.2011 (Annexure P-6) passed by respondent No. 2 and order dated 26.08.2011 (Annexure P-8) passed by respondent No. 1 vide which respondents have refused to release deposits of their father late Sh. Gurcharan Singh on the basis of judgment and decree dated 09.04.2005 (Annexure P-4) declaring the petitioners to be the sole legal representatives of Sh. Gurcharan Singh and the petitioners were advised to get Succession Certificate from the Court for release of the deposits.

Brief facts of the case are that Late Sh. Gurcharan Singh,

father of the petitioners deposited money with different banks in the shape of FDRs. The FDRs were also deposited with New Bank of India, which was subsequently merged into the Punjab National Bank. The present petition has been filed against the Punjab National Bank being the successor bank of the New Bank of India. Gurcharan Singh died on 09.11.1977. He had executed a Will dated 12.09.1977 in favour of the petitioners in which Gurcharan Singh had given his all properties to the petitioners. On the basis of the said Will, the petitioners along with their mother Bhagwanti filed a suit for Succession Certificate regarding deposits in the various banks including the Punjab National Bank, which was decreed in favour of the petitioners by Sub Judge Ist Class, Amritsar vide judgment dated 16.03.1979 and Succession Certificate was granted to the petitioners.

It has been brought to the notice that in an appeal filed by one Smt. Savitri Devi, who is claiming herself to be the widow of Gurcharan Singh, Succession Certificate was subsequently set-aside by the Court of learned Additional District Judge, Amritsar vide order dated 16.07.1979. She had made a request that she is also entitled to the deposits of Sh. Gurcharan Singh, lying in the various banks. Finally, vide order dated 22.11.1989 passed by the learned Trial Court, Succession Certificate was issued in favour of Smt. Savitri Devi. Aggrieved against the said order, the petitioners filed an appeal, which was dismissed by the learned District Judge, Amritsar vide order dated

02.05.2000. Thereafter the petitioners filed a Civil Suit for declaration in which the bank was a party and the said Civil Suit was partly decreed by the learned Civil Judge vide order dated 09.04.2005. On 04.03.2006, the petitioners filed an application for execution of the judgment and decree dated 09.04.2005, which has also been dismissed vide order dated 14.09.2009.

I have heard learned counsel for the parties and perused the record.

Once the order has been passed by the Civil Court, this Court has no power to correct or interfere with the judicial order of the Civil Court in a writ petition filed under Article 226 of the Constitution of India. The view taken by me is supported by the judgment of the Hon'ble Supreme Court rendered in in ***Radhey Shyam and another Vs. Chhabi Nath and others, 2015(2) RCR(Civil) 606***. Since the matter is already before the Civil Court, parties can only enforce their right through the Civil Court.

In view of the above, the present petition is dismissed.

However, dismissal of writ petition will not debar the petitioners from availing any other remedy in accordance with law.

September 08, 2015.
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(PARAMJEET SINGH)
JUDGE