

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

**SAO No.51 of 2013 (O&M)
Date of Decision: 11.09.2015**

**Bikramjit Singh @ Vicky
Vs
Paramjit Kaur**

**....Appellant
....Respondent**

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. S.S. Toor, Advocate
for the appellant.

Mr. B.S. Jaswal, Advocate
for the respondent.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

RAJ MOHAN SINGH, J.

CM No.20001-CII of 2013

For the reasons mentioned in the application, delay of 21 days in filing the appeal is condoned.

Application stands disposed of.

SAO No.51 of 2013 (O&M)

[1]. Appellant Bikramjit Singh @ Vicky has assailed the judgment and decrees passed by both the Courts below in rejecting the claim of the appellant in respect of appointment as nominee by deceased, Parkash Kaur during her lifetime to claim succession certificate.

[2]. Respondent Paramjit Kaur filed an application under Section 372 of Indian Succession Act for the grant of succession

certificate in respect of estate of deceased-Parkash Kaur wife of Sh. Ajaib Singh who died on 16.11.2004. Smt. Parkash Kaur was the mother of the applicant-Paramjit Kaur. Since Parkash Kaur has died leaving behind the applicant to be her only legal heir and, therefore, applicant has a right to succeed and inherit the estate of deceased-Parkash Kaur as she has not left any legal heir except the applicant-Paramjit Kaur, therefore, applicant became owner of the estate, movable or immovable left by Parkash Kaur. At the time of her death Smt. Parkash Kaur was having account in Canara Bank, Jandiala Guru, District Amritsar. Applicant came forward to withdraw the amount lying in the Bank in the name of Parkash Kaur.

[3]. Defendants No.2 and 3 claimed themselves to be the nominee of deceased-Parkash Kaur. Applicant has denied that they were appointed as nominee. The alleged nomination has been claimed to be forged and fabricated. Defendants No.2 and 3 have no interest in the estate of deceased Parkash Kaur as she died intestate and did not execute any Will or any testamentary deposition.

[4]. Notice of the petition was issued to General Public. None appeared from General Public despite publication, however appellant Bikramjit Singh @ Vicky and Ravail Singh (defendants No.2 and 3) came forward and filed their written statement. Bikramjeet Singh @ Vicky-defendant No.2/appellant staked his claim on the ground of his being appointed as nominee by deceased Parkash Kaur during her lifetime.

[5]. After necessary pleadings, trial Court framed necessary issues in the following manner:-

“1. Whether the petitioner being legal heir of deceased Parkash Kaur is entitled to the succession certificate regarding the debts and securities fully detailed in the petition? OPP

2. Whether the petition is not maintainable? OPR

3. Whether the respondent is an adopted son of Parkash Kaur ? OPR

4. Relief.”

[6]. Both the parties led evidence. The applicant Paramjit Kaur led evidence of documents in the form of FDR, death certificate and passbooks. The evidence was duly corroborated by AW-2 Kulwant Kaur. The factum of applicant Paramjit Kaur being daughter of Parkash Kaur has been established from the record and after the death of Parkash Kaur, applicant-Paramjit Kaur is the only legal heir. There was no adoption in favour of Bikramjit Singh @ Vicky as alleged by him.

[7]. Appellant-Bikramjit Singh @ Vicky appeared as RW-1 and tendered some insurance policies Exs.R1 to R-7 in evidence and also got examined one Harjit Kaur as RW-2 to claim that he was adopted by Parkash Kaur when he was six months old. Parkash Kaur nominated him during her lifetime to receive the amount lying deposited in her name.

[8]. Trial Court accepted the applicant-Paramjit Kaur to be daughter of Parkash Kaur. Evidence has come that Parkash Kaur

was real sister of mother of Bikramjit Singh @ Vicky who stepped into witness box and was examined. She admitted that Paramjit Kaur-applicant is the daughter of Parkash Kaur and Bikramjeet Singh is her son. She further admitted that there is no document executed in respect of adoption of Bikramjeet Singh by Parkash Kaur and further admitted that Ajaib Singh husband of Parkash Kaur is alive and Bikramjeet Singh was never adopted by Ajaib Singh and Parkash Kaur. It has also come in evidence that Bikramjeet Singh admitted in his cross-examination that Parkash Kaur was the mother of Paramjit Kaur and Harjit Kaur is his mother.

[9]. Parkash Kaur and Harjit Kaur were real sisters. Bikramjeet Singh @ Vicky did not say about his adoption by Parkash Kaur, rather admitted that he is son of Harjit Kaur and there is no document of adoption. There was no such ceremony of giving and taking and putting him in the lap of Parkash Kaur during adoption.

[10]. Trial Court held that there is no valid adoption during the lifetime of Smt. Parkash Kaur. Apart from this, only lady cannot adopt during the lifetime of her husband. Adoption must be made by both the spouses. Trial Court also observed that mere appointment of nomination does not mean that the nominee has become successor of the deceased and became entitled to inherit the property. Reference can be made at **Shipra Sengupta v. Mridul Sengupta and Others, 2009(4) Civil Court Cases 77 (SC)** wherein it was held that the beneficial interest is not to be conferred upon the nominee after the death of person concerned. Nominee is only the

person authorised to receive the amount or to manage the property. Otherwise the amount or property can be claimed by the heirs of the deceased in accordance with the provisions of Succession Act. The trial Court as well as lower appellate Court dismissed the claim of the appellant on the basis of nomination.

[11]. In the light of aforesaid facts, in considered opinion of this Court, the plea of the appellant being nominee of deceased has no merits. Beneficial interest is not be conferred upon nominee after the death of person. Nominee is the person authorised to receive the amount or manage the property, otherwise property or the amount can only be claimed by the heirs of the deceased as per Succession Act. At the most, appellant who was appointed as nominee can be said to be an authorised person to collect the money and hand over the same to the legal heirs of the deceased. Since the legal heir has no faith in the nominee, therefore, the filing of application for grant of succession certificate amount to nullification of the effect of nomination in favour of the appellant.

[12]. Having considered the controversy in the aforesaid light, this Court is not in a position to endorse any of the submissions made by the appellant, laying claim to the estate, movable or immovable left by Smt. Parkash Kaur deceased. Consequently, the appeal is dismissed.

September 11, 2015
Atik

(RAJ MOHAN SINGH)
JUDGE