# IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1956 of 2011**
**IN**
**Civil Writ Jurisdiction Case No. 852 of 2006**

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1. The Canara Bank through its Chairman 112, J.C. Road, Banglore – 560002.

2. The Managing Director, Canara Bank 112, J.C. Road, Banglore – 560002.

3. The Regional Manager, Canara Bank, Luv Kush Tower, Exhibition Road, Patna

4. The Manager, Canara Bank, Begusarai

All represented through Mr. Ranjan Ghoshrave, Senior Manager, R & L Section as Power of Attorney Holder, Circle Office, R & L Section, Luv Kush Tower, Exhibition Road, Patna.

.... .... Appellants

Versus

1. Sheo Prakash Maskara

2. Jay Prakash Maskara

3. Saroj Kumar Maskara

4. Santosh Kumar Maskara

All sons of Late Matrumal Maskara, all R/O Goushala Road, Begusarai, Bihar.

5. Shanti Devi Agrawal, W/O Shankar Lal Agrawal, R/O Mangal Bazar, Katihar.

6. Sumitra Devi Saraf, W/O Late Parmeshwar Lal Saraf, R/O Tower Chowk, Darbhanga.

7. Shakuntala Devi Shah, W/O Late Nawal Kishore Shah, R/O M.P. Dwivedi Road, Bhagalpur.
( All heir and legal representative of deceased petitioner Kishni Devi Maskara, who were directed to be substituted in the Writ Application by order dated 22.02.2011, passed on the basis of I.A. No. 872/2011, but in the certified copy of impugned order their names have been left to be added in place of original petitioner).

8. The Banking Ombudsman, State of Bihar & Jharkhand, 2nd Floor, Biscomaun Tower, West Gandhi Maidan, Patna, at present Reserve Bank of India, South Gandhi Maidan, Patna-1

.... .... Respondents

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**Appearance :**

For the Appellant/s : Mr. Raj Kishore Prasad Singh
Mr. Bal Bhushan Choudhary
Mr. Manish Kishore

For the Respondent/s : Mr. Dhrub Narayan, Sr. Advocate
Mr. O.P. Agarwal
Mr. Ashok Kumar Singh, No.2

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**CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH**
**And**
**HONOURABLE JUSTICE SMT. NILU AGRAWAL**
ORAL JUDGMENT
**(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)**

**Date: 12-02-2016**

Heard learned counsel for the Bank, the appellant, and learned counsel for the private respondent, who, in due course of time were substituted heirs of the writ petitioner.

The Bank has preferred this Intra-Court Appeal under Clause 10 of the Letters Patent of the Patna High Court, being aggrieved by judgment and order dated 22.02.2011 passed by the learned Single Judge of this Court in C.W.J.C. No. 852 of 2006.

We have heard the learned counsels, and with their consent, we are disposing of this appeal at this stage itself.

It appears that one Matrumal Maskara was married to Kishni Devi Maskara. They, *inter alia*, had son Santosh Kumar Maskara, all being residence of Begusarai. There were four different Kamdhenu Deposits made in the name of Matrumal Maskara being K.D.R. Nos. 361, 362, 363 & 365 of 1996 with the Canara Bank. There was similar deposit being K.D.R. No. 364 of 1996 in the name of Kishni Devi Maskara and K.D.R. No. 356 of 1996 in the name of Santosh Kumar Maskara. These deposits are cumulative deposits i.e. the interest accruing is ploughed back and upon maturity, the entire cumulative amount is paid. They were to mature for payment at the end of one year i.e. in 1997. It is not in dispute that none of the three parties approached the Bank for either renewal or encashment of the said deposit certificates, it lay with the Bank. In other words, the money remained with the Bank. For the first time in the year 2002, the parties approached the Bank for renewal of the deposit receipts. This time the Bank refused to renew the receipts with effect from the date of its original maturity, though they were agreeable to renew the same for the matured amount from the date when they were applying in 2002. Santosh Kumar Maskara then represented to the head office of the

Bank pointing out that as per Banking practice, as in the past renewals from back date should be granted with prevalent interest rates, because, the money remained with the Bank all through the period. The head office of the Bank examined the matter and directed the Bank to renew the certificates in relation to Santosh Kumar Maskara with effect from the date of its maturity on rate of interest prevailing in that period. Accordingly, Santosh Kumar Maskara's K.D.R. No. 356/1996 was renewed as K.D.R. No. 440/2002 with effect from 1997 on yearly basis giving due credit of interest accrued and re-deposited, but when it came to Matrumal Maskara and his wife being father and mother of Santosh Kumar Maskara, the Bank took a stand that it will not give the same treatment. The matter was taken to Banking Ombudsman who also refused to grant any relief, and hence, the writ petition was filed. The learned Single Judge, rightly in our view, directed renewal of the K.D.R. certificates. There is no plausible explanation why in case of Santosh Kumar Maskara, the Bank agreed to renew for five years retrospectively and grant interest at prevailing rates, but when it came to his father and mother why the Bank took a different stand. Therefore, the direction of the learned Single Judge which is virtually directing that same treatment has to be given to the parents cannot be faulted with, but there is a problem i.e. due to subsequent events. It is not in dispute that during pendency of the writ petition Kishni Devi Maskara had died on 13.10.2010. Thus, renewals could only be up to that period and not beyond that. There cannot be a renewal in name of different constituent, than the original applicant, as that would be a fresh deposit. To accept or not to accept fresh deposit is Bank's discretion and that would also depend upon the claimants upon death, establishing their rights in absence of nominees. Matrumal Maskara died on 17.09.1998, and it is for the first time in 2002 renewal was sought by one of the sons, naturally after his death. There could be no renewal in his name. To that extent, we are of the view that after the death of Matrumal Maskara, the K.D.R. receipt could not be renewed as there is no proof of the fact that renewal or maturity claim was led by all the heirs completing all formalities.

Thus, to that extent, order of the learned Single Judge in relation to Kishni Devi Maskara and Matrumal Maskara stands modified. This Letters Patent Appeal with the aforesaid modification stands disposed of.

It may, however, be noted that if all the heirs of Matrumal Maskara and Kishni Devi Maskara claim payment consequent to encashment, Bank would pay the same as per their joint claim in the shares they desire.



**(Navaniti Prasad Singh, J.)**

Rajeev/N.A.F.R.

**(Nilu Agrawal, J.)**

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