

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4269 of 2014

Kapildev Narayan Son Of Late Raghunath Prasad Resident Of Mohalla - Purbi Nand Gola, Tikia Toli, Banglappar, P.S. Malsalami, Post - Madhav Mills, District - Patna

.... .... Petitioner/s

Versus

- 1. Manager Bank of Brauda, Patnacity Branch
- 2. Manager, the State Bank of Bikaner and Jaipur Patna City, Patna
- 3. Manager, Bank of India, Patna City, Patna
- 4. Manager, Indian Bank, Patnacity, Patna
- 5. Shyam Sunder Prasad Son Of Late Raghunath Prasad Resident Of Mohalla - Chutkiya Bazar, P.O. Madhav Mill P.S. Marsalami, Patnacity, District - Patna

.... .... Respondent/s

Appearance :

For the Petitioner/s : Mr. RAM KRISHNA PRASAD YADAV  
For the Bank Mr. Sanjay Singh Thakur  
Mr. Prashant Sinha  
For respondent no.5 Mr. Amresh Kumar

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL  
ORAL JUDGMENT  
Date: 30-09-2016

Heard Mr. Yadav in support of the writ application, Mr. Amresh Kumar appearing for respondent no.5 and Mr. Prashant Sinha for respondent nos.3 and 4.

The father of the petitioner as well as respondent no.5 had certain term deposits with the respondent Bank. It is stated that before the fixed amount could mature, the father died on 03.11.2008. The petitioner was the nominee in those deposits. The writ application prays for a direction upon the respondent Bank to allow the petitioner to withdraw/operate those accounts of the deceased as the former was the nominee in those accounts/ term deposits.

A counter affidavit is filed on behalf of respondent no.5 stating therein that Late Raghunath Prasad died leaving behind 04 sons and 03 daughters

complete details whereof have been set out in paragraph 2. Having found that the petitioner was not ready and willing to distribute the proceeds of these deposits amongst the other claimant heir(s) of Late Raghunath Prasad in equal proportion, respondent no.5 filed a title suit being T.S. No. 259 of 2008 in which the petitioner has been arrayed as defendant. The petitioner being the defendant of the suit has already appeared and filed written statement. Even according to the Banking Regulations, the nominee is only to receive the amount lying in those accounts but on behalf of all other legal claimant(s) thereof. In case at hand, the 04 sons and 03 daughters of Late Raghunath Prasad are the claimants. Surprisingly, these facts have not been stated in the writ petition.

The counsel for respondent no.5 has rightly contended that the petitioner is guilty of suppression of materials facts from this Court. He has not approached the Court with clean hands.

I find substance in the said submission of respondent no.5. On this score alone, the writ petition is bound to fail. I order accordingly.

**(Kishore Kumar Mandal, J)**

HR/-

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