

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.31533 of 2015
and
M.P.Nos.1 and 2 of 2015

M.Ravi .. Petitioner

Vs.

The Branch Manager,
State Bank of India,
Kattupakkam Branch,
No.47, Mount Ponnamallee Trunk,
Kattupakkam,
Chennai-600 056. .. Respondent

The writ petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus, forbearing the respondent from closing the Account No.20080907184, bearing CIF No.85925844432 and handing over the amount in the said account to any other person than the petitioner and consequently direct the respondent to close the account and settle the amount left in it to the petitioner.

For Petitioner : Mr.M.Vijayamehanath

For Respondent : Mr.P.D.Audikesavalu

ORDER

Heard the learned counsels appearing on behalf of the petitioner, as well as the respondent Bank.

2 This writ petition has been filed, praying that this Court may be pleased to issue a Writ of Mandamus to forbear the respondent Bank from closing the Savings Bank Account, bearing No.20080907184, which is in the name of P.Rajeswari, and to prevent the Bank from handing over the amount, lying in the said account to any person, other than the petitioner.

3 The petitioner has stated that he had married P.Rajeswari, on 9.2.2014. P.Rajeswari was working, as an Inspector in the Central Excise Department, at Chennai. She had died, on 10.9.2015, due to liver cancer. After the death of the petitioner's wife, on 10.9.2015, he had learnt that his wife P.Rajeswari, had nominated her sister, namely, P.Shenbagavalli, as a nominee, under Section 45-ZA of the Banking Regulation Act, 1949 and Rule 2(1) of the Banking Companies (Nomination) Rules, 1985. In such circumstances, the petitioner has preferred the present writ petition before this Court, under Article 226 of the Constitution of India.

4 The learned counsel appearing on behalf of the respondent Bank has filed a counter affidavit, dated 6.6.2016. Paragraph 10 of the counter reads as follows :

"10.I submit that the Hon'ble Supreme Court in the decisions in Sarabati Devi Vs. Usha Devi [(1984) 1 SCC 424], Vishin N.Khanchandani Vs. Vidya Lachmandas Khanchandani [(2000) 6 SCC 724] and Shipra Sengupta Vs. Mridul Sengupta [(2009) 10 SCC 680] has reiterated the legal position regarding nomination made by a deceased person as follows:-

(i)that the nomination indicates the hand which is authorised to receive the amount or manage the property, and payment of the amount or delivery of the property to such nominee would fully discharge the liability of the person from whom the payment has to be made or the property delivered.

(ii)that mere nomination made in favour of a particular person does not have effect of conferring on the nominee any beneficial interest in the amount or the property after the death of the person concerned; and

(iii)that the property or the amount, as the case may be, can be claimed by the heirs of the deceased from the nominee, in accordance with the law of succession, governing them.

Hence, in respect of the amount lying to the credit of the said P.Rajeswari in her aforesaid Savings Bank account, for which she had made nomination in favour of the said P.Shenbagavalli, the Respondent, as banker, gets duly discharged if that amount is paid to the said P.Shenbagavalli on getting necessary

acknowledgement from her for the same. This would not, however, mean that the said nominee would be solely entitled to appropriate those benefits by excluding the other eligible legal heirs, and they are entitled to independently work out their rights for claiming their respective shares from that nominee."

5 The learned counsel appearing for the respondent Bank had relied on a decision of the Supreme Court in Shipra Sengupta Vs. Mridul Sengupta and others [(2009) 10 SCC 680], while submitting that the nominee is a trustee, in respect of the money lying in the savings bank account of P.Rajeswari, wife of the deceased, who had died, on 10.9.2015.

6 In view of the averments made in the affidavit filed in support of the writ petition and the counter affidavit filed on behalf of the respondent Bank, this Court is of the considered view that the present writ petition, filed by the petitioner, is not maintainable. It is not for this Court to issue a direction to the respondent Bank, as prayed for by the petitioner, in the present writ petition, contrary to the nomination made by P.Rajeswari, the deceased wife of the petitioner, under Section 45-ZA of the Banking Regulation Act, 1949 and Rule 2(1) of the Banking Companies (Nomination) Rules, 1985. Therefore, this Court finds it appropriate to dismiss the writ petition, as not maintainable. Accordingly, the writ petition is dismissed. However, it goes without saying that it may be open to the petitioner to seek his remedy, if any, before the appropriate forum or the authority concerned, in the manner known to law. No costs. Consequently, the miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

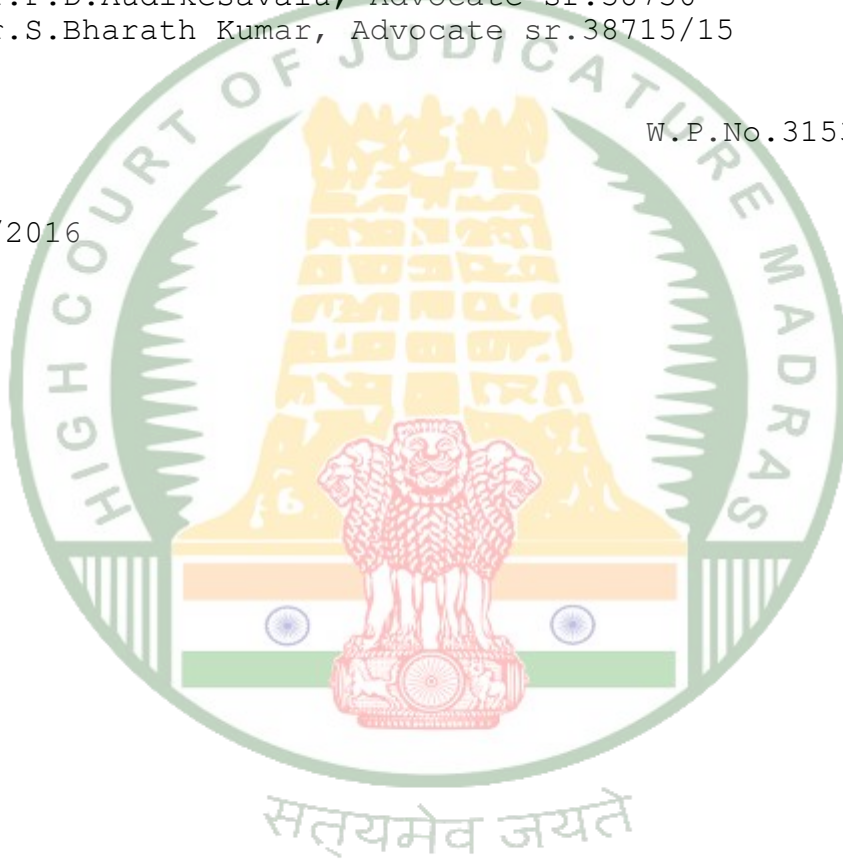
To

The Branch Manager,
State Bank of India,
Kattupakkam Branch,
No.47, Mount Ponnammallee Trunk,
Kattupakkam,
Chennai-600 056.

+lcc to Mr.M.Vijayamaganath, Advocate Sr.38855
+lcc to Mr.P.D.Audikesavalu, Advocate sr.38736
+lcc to Mr.S.Bharath Kumar, Advocate sr.38715/15

W.P.No.31533 of 2015

skv[co]
srg 20/07/2016



WEB COPY