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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CM(M) 730/2016

LT GEN SATWANT SINGH DAHIYA & ANR ..... Petitioners

Through Mr.Shankar Vaidalingam & Mr.Shivain Vaidalingam, Advocates with Petitioner No.1 in person.

versus

SHAKUNTALA DAHIYA & ORS ..... Respondents

Through None.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

<u>O R D E R</u>

% 01.08.2016

1. By the present petition, the petitioners seek to impugn the order dated 26.05.2016 passed by the learned Additional District Judge-03, Patiala House Court, New Delhi.

2. Brief background of the matter is that Late Brig.B.S Dahiya had a Public Provident Fund Account *(hereinafter referred to as the 'PPF Account')* with State Bank of India, R.K.Puram, Delhi. Late Brig.B.S. Dahiya died on 08.04.2000. Thereafter, a partition suit was filed by the plaintiff/respondent No.1 and an interim order was passed on 15.03.2002. However, in violation of the interim order, plaintiff/respondent No.1 was permitted to withdraw around Rs.6,40,000.00 available with the PPF Account of Late Brig.B.S Dahiya. A contempt petition was filed against plaintiff/respondent No.1 and the same was disposed of vide order dated 08.10.2012 as plaintiff/respondent No.1 deposited the withdrawn money

with the bank along with interest.

3. This court on 08.10.2012 disposed of the contempt holding that there is no necessity of continuing with the contempt proceedings as it was undertaken by respondents No.4 and 5 that the amounts which would be paid as interest on the term deposit would not in any case be less after payment of the tax, than the amount which would be earned in the PPF account from which the amount was initially withdrawn. This statement of the respondents No.4 and 5 was held to be binding on the concerned SBI Branch, R.K.Puram, New Delhi.

4. By the impugned order the learned trial court relying on a communication received by the SBI, R.K.Puram from the Joint Director, Ministry of Finance, Government of India on 16.05.2016 noted the consent of both the parties and also noted that this would not lead to any monetary loss to the beneficiaries. The prayer of the bank was allowed without prejudice to the rights and contentions of both the parties in this suit as well as other civil and criminal cases. The SBI, R.K.Puram was granted permission to request Ministry of Finance, Government of India to exercise its discretion as per rules and regulations applicable for governing the PPF Accounts and the application was disposed of.

5. The learned counsel for the petitioner has vehemently argued that the application filed by SBI, R.K.Puram was nothing but an attempt to over reach the earlier orders of the court. He also relied upon the earlier application filed by the SBI, R.K.Puram allegedly seeking somewhat the same relief which was disposed of vide order dated 03.12.2012. He further relied upon the affidavit filed by the SBI, R.K.Puram stating SBI, R.K.Puram remains bound by the order dated 08.10.2012.

6. Admitted position is that financially the beneficiaries to the accounts are going to be put at no loss. The basis on which the trial court has passed the impugned order is a communication received by SBI, R.K.Puram from the Joint Director, Ministry of Finance, Government of India on 16.05.2016. Relevant portion of the said communication reads as follows:

> "With reference to your email dated 10.05.2016 on the above noted subject. We are to clarify that PPF Scheme rules do not permit revival of the closed PPF Account of a deceased subscriber, hence the closed PPF Account of Late Sh. B.S.Dahaiya cannot be revived.
>
> However, the Ministry of Finance have the powers to make any exemption/relaxation of the said rules, and they have already suggested seeking permission/necessary directions from the Hon'ble court regarding restoration or otherwise of the said PPF Account vide their letter F.No.3/4/2013-NS-II dated 01.01.2014 addressed to this office which was conveyed to you vide this office letter No.6-1(19) PCGC/SSD/12-13/96 dated 10.01.2014, you may approach the Ministry of Finance for seeking additional clarifications/permissions in this regard."

7. Keeping in view the above communication received by SBI, R.K.Puram from the Joint Director, Ministry of Finance, Government of India on 16.05.2016, the bank has moved the present application. The trial court has noted that no financial loss will be caused to the beneficiaries and also noted that the prayer made by the bank would be considered without prejudice the rights and contentions of both the parties in this suit as well as other civil and criminal cases. The trial court merely granted SBI, R.K.Puram permission to request to Ministry of Finance, Government of India to exercise its discretion as per rules and regulations applicable for governing the PPF Accounts. Clearly, no prejudice is caused to the

petitioner. The impugned order does not overreach any earlier order of the trial Court.

8. In my opinion, there is no ground to interfere with the order passed by the trial court. The petition is dismissed.

JAYANT NATH, J.

AUGUST 01, 2016/v