IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2583 OF 2017

SURESH DAMU PATIL
VERSUS
THE BRANCH MANAGER CENTRAL BANK OF INDIA JALGAON
...
Advocate for Petitioner : Farooqui Kamaloddin
AGP for Respondent No.1: A.R. Kale
Advocate for Respondent No.2. : P.B. Gamot
...

CORAM : S.C.DHARMADHIKARI &
MANGESH S. PATIL,JJ.

DATE : 06/07/2017

PER COURT :-

1] Having heard both sides we find that the branch manager, Central Bank of India to whom private notice is issued, but who is absent, should have released the sum in favour of that gentleman who has obtained the heirship certificate.

2] In the legal notice dated 27/01/2017 the advocate for the petitioner has duly informed the bank that the guardianship certificate was issued on the basis of the order dated 02/04/2016, passed by the learned District Judge-2 Bhusawal in Misc. Application No. 67/2015. Suresh/petitioner's appointment as a guardian was cancelled. However, Suresh challenged this order by filing first appeal in this Court being First Appeal No. 2985/2016. This Court passed order on 07/10/2016 and cancelled the appointment of the respondent no. 2 before us as a guardian. The second respondent was directed to obtain the necessary order in respect of guardianship of the mentally retarded sister viz. Champavati Damu Patil.

3] Thereafter the petitioner approached the competent authority, local level committee established under the National Trusts Act, 1999 on 15/11/2016 and the petitioner has secured guardianship certificate as per the directions of this Court. The Bank still is not releasing the pension to the petitioner but to the second respondent. The guardianship certificate and all related documents were forwarded by the petitioner.

4] It is the Bank's inaction so also refusal which is challenged in this Writ Petition.

5] At the outset it is clarified that we are not concerned with any private dispute between the petitioner and the second respondent. We are also not commenting upon the appointment as guardian and either of them for that issue has gained finality. Once the petitioner has approached the Bank and has produced the relevant documents, then, we do not see any reason for the Bank releasing the pension amount in favour of the second respondent. There appears to be no justification for this course adopted by the bank. The second respondent has not brought any restraint or prohibitory order from any competent Court restraining the petitioner from receiving the sum or applying for release of the pension in the petitioner's favour. In the absence of any injunction or restraint order the Bank cannot continue and release amount in favour of the second respondent. That appears to be clearly illegal as also unfair, unjust, contravening the mandate of Article 14 of the Constitution of India. The Bank is amenable to our writ jurisdiction. In releasing the pension amount it has to perform a duty in accordance with law. In these circumstances by keeping open all contentions regarding the dispute between the petitioner and the second respondent and equally the remedies of respondent no 2, we direct that the second respondent-Bank should release the pension amount in favour of the petitioner after the petitioner executes an indemnity, indemnifying the Bank against all claims and legal proceedings to be instituted or pending between the second respondent and the petitioner meaning thereby the Bank will not be held responsible for complying with our directions. The writ petition is disposed of in these terms. No costs.

(MANGESH S. PATIL,J.) **(S.C.DHARMADHIKARI,J.)**

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