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HIGH COURT OF CHHATTISGARH, BILASPUR**FA No. 273 of 1998**Judgment reserved on : 13.07.2018Judgment delivered on : 24.07.2018

Bhupendra Singh Muchhal, age about 37 years, S/o Mehar Singh, C/o Chawla Watch Co., Baloda Bazar, Raipur.

---- Appellant**Versus**

1. Jaspal Singh, aged about 26 years.
2. Satpal Singh, aged about 23 years.
3. Punjab National Bank, through Branch Manager, P.N.B. Barela Branch, Takhatpur, District- Bilaspur.
4. Ms. Man Kaur, W/o Trilok Singh, aged about 50 years, R/o Bharat Electricals, Sadar Bazar, Kavardha, District- Rajnandgaon.
5. S. Nishchal Singh, aged about 45 years.
(No. 1, 2 & 5 S/o Mehar Singh, R/o Gurdwara Road, Takhatpur, District- Bilaspur).
6. Ms. Satnam Kaur, W/o Jaspal Singh, aged about 45 years, C/o Ganga Soap Works, Mahasamund, District- Raipur.
7. Ms. Surendra Kaur, W/o Avtar Singh, aged about 40 years, R/o Shri Guru Tegbahadur Society, Ahmedabad.
8. Ms. Gurnam Kaur, W/o Balwant Singh Thelawale, aged about 30 years, Near New Mandi, Bhatapara, District- Raipur.

---- Respondents

For Appellant	:	Mr. Alok Bakshi, Advocate
For Res. No. 2 & 3	:	Mr. P.R. Patankar & Mr. Aman Tamboli, Advocate
For Res. No. 4, 5, 7 & 8	:	Mr. Raj Kumar Gupta, Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma**CAV JUDGMENT**

1. This first appeal is preferred under Section 96 of the Code of Civil Procedure, 1908 against judgment/ decree dated 10.03.1998 passed by 7th Additional District Judge, Bilaspur, M.P. (Now C.G.) in Civil Suit No. 4-A/1994, wherein the said court decreed that amount of Rs. 53,000/- which is

deposited in FDR of Punjab National Bank, branch- Barela, Takhatpur, District- Bilaspur will be distributed to all the sons of late Ram Kaur.

2. Originally, the suit was filed by Ram Kaur that amount of Rs, 25,000/- was deposited in the said bank on 13.08.1984 for seven years by Ram Kaur and name of the appellant was mentioned in the said fixed deposit as appellant was the more literate person of the family therefore, Ram Kaur is solely entitled to get the amount fixed deposited.
3. From the evidence adduced before the trial court, it is established that the amount was fixed deposited by Ram Kaur and the appellant. Respondent Jaspal Singh, Satpal Singh were substituted in place of Ram Kaur on the ground that Ram Kaur executed a will in favour of Jaspal Singh & Satpal Singh on 06.01.1995. Two persons namely Gulab Singh and Sharanpal Singh were attesting witnesses of said will, but no one examined before the trial court and in absence of deposition of any of the attesting witnesses, will was not proved.
4. The fixed deposit was as per terms and conditions of the respondent bank (Ex. D-1-C). The terms and condition of the bank is as under:-

“ 1.(A) The Deposit in question will be payable to Either in case any one of us gives to the Bank written instruction revoking the above instructions, the deposit will be payable on the joint discharge of all of us or the survivor (s). In the event of death of any one of us, the deposit will be payable to the survivor (s). The payment as per instructions so given by the persons (s) above mentioned or survivors (s) will given good and discharge to the Bank”

5. The deposit in question is payable only to the survivor in the event of death of any of them and in the present case, after death of Ram Kaur, the appellant is the only survivor and as per terms and conditions of the bank, the appellant is entitled to get the amount.

6. The trial court opined that the condition or rule of the bank will not apply in the present case and all the sons of Ram Kaur are entitled to receive the amount. Now the point is whether a decree can be passed against the terms and condition of the bank. In view of this Court, the amount is deposited by two persons namely Ram Kaur and the appellant and on the date of depositing the amount, both Ram Kaur and the appellant have agreed to abide by the rules Ex. D-1-C. No one can deviate from the binding conditions. The amount was either payable by joint signature or on instructions of any of them during their life time and after the death of one depositor, the amount is payable to the survivor. When the condition is binding on Ram Kaur, the person claiming under the authority of Ram Kaur are stopped in saying that they are not bound by the terms and conditions of the bank. The law of estoppel will apply to all the persons claiming under the interest of Ram Kaur, therefore, the trial court is not right in holding that the terms and conditions of the bank will not apply after death of Ram Kaur.
7. The decree passed by the trial court is not sustainable and the same is liable to be and is hereby reversed. It is held that surviving persons who is appellant Bhupendra Singh is only entitled to get the amount deposited in the bank.
8. Accordingly, the judgment and decree passed by the trial court is set aside. The decree is passed in favour of the appellant and against the respondents on the following terms and conditions:
 - (i) The appeal is allowed. The appellant Bhupendra Singh is only entitled to get the money fixed deposited in Punjab National Bank and the bank will pay the entire sum to him.
 - (ii) Parties shall bear their own cost.
 - (iii) Pleaders' fee, if certified be calculated as per certificate or as per

schedule whichever is less.

- (iv) A decree be drawn accordingly.

Sd/-
(Ram Prasanna Sharma)
Judge

Arun