

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2018

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.13809 of 2018

1. V.Kalpana
2. N.Venkatesh

.. Petitioners

Vs.

1. The Branch Manager,
State Bank of India,
Mandaveli Branch,
Vekata Krishna Road,
Mandaveli, Chennai 600 028.

2. The Secretary,
Ministry of Finance,
Banking Division,
New Delhi.

.. Respondents

* * *

Prayer : Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the first respondent State Bank of India, Mandaveli Branch, to release the amount to the petitioners standing to the credit of Mr.Natarajan in the Account No.10150944952 in Pass Book No.1015 maintained under the PPF Scheme, 1968.

* * *

For Petitioner : Mr.G.Senthilkumar

For Respondents: Mr.K.Chandrasekaran for R1

Mr.R.Veludas,
Central Govt. Standing Counsel for R2

O R D E R

The Bank Companies (Acquisition and Transfer of Undertakings) Ordinance, 1969 was promulgated on 19.07.1969, followed by Act 5 of 1970. The Preamble of the Act reads as follows :

"An Act to provide for the acquisition and transfer of the undertakings of certain banking companies, having regard to their size, resources, coverage and organisation, in order to control the heights of the economy and to meet progressively and serve better, the needs of development of the

economy in conformity with national policy and objectives

2. Even before the first nationalization of 14 Banks in the year 1969 and the second nationalization of 6 Banks in the year 1980, the Imperial Bank was nationalised in 1955, making it the State Bank of India/the first respondent herein. The object of the nationalization, inter alia, is to "serve better".

3. The petitioners are wife and son of one Natarajan, who professed Advocacy from the year 1987. When he was a bachelor, he opened a Public Provident Fund Scheme Account bearing Account No.10150944952 in Pass Book No.1015 with the first respondent on 24.03.1995 for a period of fifteen years making his mother as nominee. His mother died on 23.10.1999. During 2010 and 2015, he extended the account for another five years. He died on 28.07.2017 leaving behind the petitioners as his legal heirs. The first petitioner approached the first respondent making a claim with respect to the amount lying in the said account. She was asked to submit a claim form with certain documents, which she had complied with on 04.11.2017. It is stated that the first respondent forwarded the same to the Claims Department of the respondent Bank on 07.11.2017. After repeated solicitation, on 09.01.2018, she was given a copy of communication sent to the first respondent by the Regional Manager (RBO-I), returning the proposal. Though she made another representation on 12.02.2018, the first respondent gave a bald reply asking her to produce the letter of administration. The representation submitted to the Regional Manager (RBO-I) thereafter on 17.03.2018 did not yield any response at all till date. Hence, seeking a direction to the first respondent to release the amount standing to the credit of the said account, the petitioners filed this writ petition before this Court.

4. Refuting the claim of the petitioners in the writ petition and substantiating their stand, the first respondent filed a counter affidavit.

5. Heard the submissions of the learned counsel on either side and perused the materials available on record.

6. It is unfortunate that the petitioners lost the care, love and affection of the husband and the father respectively. The second petitioner is a college student at the time of death of his father. The petitioners made a claim for return of the amount, that was saved for their welfare by the deceased in the Public Provident Fund Scheme Account. But it was rejected on hyper-technical grounds. When it rains, umbrella has to be given, not at the time of fair weather. That could be construed to be the best service.

7. It is not in dispute that the deceased nominated his mother, when he opened the account. She died on 23.10.1999. Thereafter, he failed to change/add the nomination. Even an educated professional was not sensitized about the necessity of changing nomination, after the marriage or at least after the death of the nominee.

8. Though the nomination is at the option of a customer, it is also the responsibility of the Banks to educate the customers about the significance of making nominations, changing/adding nominations. After the digitization of all records and transactions, at the click of the mouse, a Bank can find out as to whether there is a nomination in an account or not. If there is no nomination in any account, the concerned customer could be informed in writing or by way of SMS about the same inviting his option. In fact, it appears that the Reserve Bank of India directed the banks to obtain nominations in respect of deposit accounts from the customers and if a customer opts not to nominate anyone, then he should be asked to give it in writing. The banks are nowadays insisting the customers to submit "Know Your Customer (KYC) Forms", not only from the one opening new account, but also the existing customers as well. Likewise, nomination forms should be obtained not only from the new customers, but it should also be extended to the long time customers, who failed to exercise that option. Even those who have made nominations shall be sensitized about the importance of making deletions/additions/changes, based on the circumstances.

9. Coming to the case on hand, it appears that the Regional Manager (RBO-I) of the first respondent Bank returned the proposal to the first respondent stating that the instructions given in the Government Business Manual page Nos.246 and 247 have to be followed and the branch can settle the balance after obtaining a "Letter of Administration" issued by the competent court. The relevant portion of the said Manual dealing with Settlement of claim to the nominee/legal heirs of the PPF Account of a deceased subscriber is usefully extracted hereunder :

"Where there is no nomination in force at the time of the death of the subscriber, the amount standing to the credit of the deceased shall be repaid by the Bank only to the legal heirs of the deceased on receipt of an application in PPF Forms (Encl-9) in this behalf from them.

There is no time limit within the nominee(s)/heir (s) should claim repayment.

The balance in the account will continue to earn interest at the applicable rates, till the end of the month preceding the month in which payment of deposit is made to the nominees/legal heirs :

Where a subscriber dies without any nomination, the scheme now permits payment of balance of Rs.1 lac to the legal heirs on obtention (sic) of the following documents in terms of Government Notification No.GSR 895(E), dated 23.06.1986.

1. Letter of Indemnity ;
2. Letter of Disclaimer ;
3. Death Certificate ;
4. Affidavit."

10. A perusal of the above clause would go to show that in the first instance it is stated that "where there is no nomination in force at the time of the death of the subscriber, the amount standing to the credit of the deceased shall be repaid by the Bank only to the legal heirs of the deceased on receipt of an application in PPF Forms G". However, subsequently at page No.247, relying on a Government Notification No.GSR 895(E), dated 23.06.1986, the settlement of claim was restricted to Rs.1,00,000/-, if there is no nomination. At this stage, this Court is of the view that the notification issued in the year 1986 requires amendment periodically increasing the monetary limit and it cannot be compelled to be followed for ever.

11. Further, apropos the return of the proposal, it is relevant to state that the first respondent claimed that the Public Provident Fund Scheme is framed under the Public Provident Fund Act, 1968 (in short, "the Act"). Section 8 of the Act reads thus :

"Payment on death of subscriber.

8. (1) If a subscriber dies and there is in force at the time of his death a nomination in favour of any person, all amounts standing to his credit in the Fund shall be payable to the nominee.

(2) Where the nominee is a minor, the amounts referred to in sub-section (1) shall be payable to any guardian of the property of the minor appointed by a competent court, or where no such guardian has been so appointed, to either parent of the minor, or where neither parent is alive, to any other guardian of the minor.

(3) Where there is no nomination in force at the time of the death of the subscriber, the amounts referred to in sub-section (1) shall be payable to his legal heirs."

12. A perusal of Sub-section (3) of Section 8 of the Act would make it clear that the legal heirs of the deceased

subscriber is entitled to receive all amounts standing to the credit of the Fund. The conditions stipulated in the scheme such as, asking the legal heirs to produce letter of indemnity, affidavit, letter of disclaimer, etc., is only to ensure that the amounts should reach the right hands. In the case on hand, the petitioners produced all the documents required to ensure that the amount is made available to the right people. In addition to letter of indemnity and other documents, they have also produced sureties, as required by the Bank, to meet out the exigency, if any, by way of rival claim. In such circumstances, driving the petitioners to approach the court to obtain letter of administration, after giving evidence etc. will only add fuel to their agony. It is brought to the notice of this Court that the petitioners have already submitted necessary documents to the first respondent, as mandated under the Scheme, such as Indemnity Bond, Security to the amount equivalent to the amount of claim (in fact, it is more than claim), Affidavits, Legal Heirship Certificate, Letter of Disclaimer etc.,

13. In the aforesaid circumstances, the first respondent is directed to satisfy himself about the correctness of the documents already submitted and thereafter shall release the amount standing to the credit of the Account No.10150944952 in Pass Book No.1015 maintained under the PPF Scheme, 1968, along with interest at the applicable rates till the date of payment, to the petitioners within a period of four weeks from the date of receipt of a copy of this order.

14. Accordingly, this writ petition is allowed. However, there will be no order as to costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Branch Manager,
State Bank of India,
Mandaveli Branch,
Vekata Krishna Road,
Mandaveli, Chennai 600 028.

2. The Secretary,
Ministry of Finance,
Banking Division,
New Delhi.

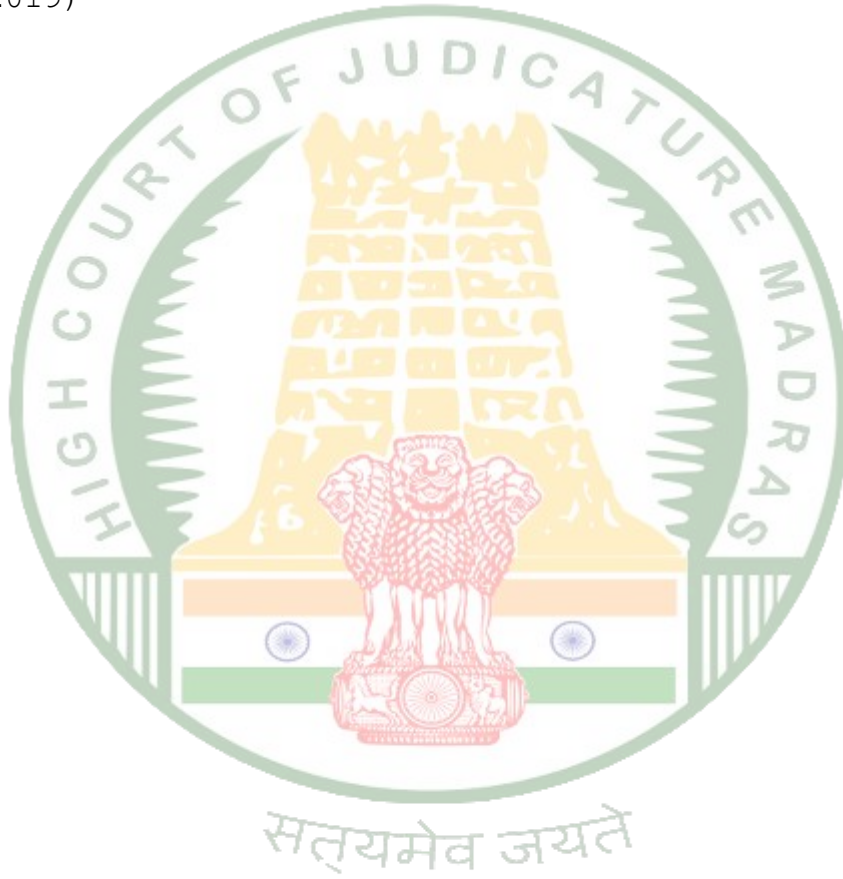
+1 CC to Mr.G.Senthilkumar, Advocate sr 85666.

+1 CC to Mr.K.Chandrasekaran, Advocate sr 85768.

+1 CC to Mr.R.Veludas, Advocate sr 85899.

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AD(CO)
SP(09/01/2019)



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