

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.08.2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.26992 of 2017

S.Sampath

... Petitioner

..Vs..

1.The Regional Manager,
State Bank of India,
No.22, 6th East Cross Street,
Gandhi Nagar,
Vellore - 632 006,
Vellore District.

2.The Branch Manager,
State Bank of India,
Kalavai Branch - 632 506,
Vellore District.

... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus or any other writ or order or direction in the nature of writ, directing the respondents to consider the petitioner's representation dated 04.02.2017 and thereby direct the 2nd respondent to disburse the fixed deposit amount deposited in the 2nd respondent bank account by the petitioner's father.

For Petitioner : Mr.A.Rajesh Kanna

For Respondents : Mrs.S.R.Sumathy - for R1 & R2

सत्यमेव जयते
O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to consider the petitioner's representation dated 04.02.2017 and thereby direct the 2nd respondent to disburse the Fixed Deposit amount deposited in the 2nd respondent Bank by the petitioner's father.

2. The father of the petitioner late Sri.J.Swaminathan during his lifetime maintained a Bank account with the 2nd respondent / State Bank of India, Kalavai Branch, Vellore District. He deposited the below mentioned amount under fixed deposit scheme in the 2nd respondent Bank on various dates as prescribed below:

Sl.No .	Date	Amount	Fixed Deposit Receipts No.
1.	01.07.2009	70,000/-	30300609858
2.	14.07.2009	75,000/-	30308567398
3.	14.07.2009	75,000/-	30308567194
4.	01.07.2009	1,00,000/-	30300609597
5.	01.07.2009	1,00,000/-	30300610081
6.	24.01.2012	1,00,000/-	30751301646
7.	24.01.2012	1,00,000/-	30751308074

3. The Father of the Writ petitioner had deposited the total sum of Rs.6,20,000/- and the same got matured along with the interest and at the time of filing of the Writ petition, matured amount was about Rs.9,50,289/-. In all the deposits, the name of the Writ petitioner was nominated as nominee by his Father. Even in the nominee column, he mentioned the name of the writ petitioner as Nominee in respect of his account No.30294895820. The 2nd respondent Bank also acknowledged the same.

4. The Father of the Writ petitioner passed away on 18.01.2016 leaving behind the writ petitioner and his siblings. However, the respondents have not honoured the nomination given in favour of the Writ petitioner and refusing to disburse the fixed deposit amount to the Writ petitioner. Thus, the Writ petitioner is constrained to move the present writ petition.

5. The learned counsel for the respondent Bank admits the fact that the writ petitioner has been nominated in respect of the fixed deposit scheme and his name was not nominated in respect of the Savings bank account. Thus, the Writ petitioner is entitled to get back the matured fixed deposit amount alone and not the amount lying in the Savings Bank account.

6. This Court is of an opinion that when the Banking Regulation Act, 1949 enumerates that if any nomination is available in favour of any person, the amount deposited had to be disbursed in favour of such nominee. Contrarily, the Bank, in the event of any dispute between the legal heirs, was not honoring the nomination made by the original depositor and further, the nomination is provided under Section 45 Z A of the Banking Regulation Act, 1949 and it is relevant to extract Section 45 Z A of the Act:

45ZA:Nomination for payment of depositors money:

(1) Where a deposit is held by a banking company to the credit of one or more persons, the depositor or, as the case may be, all the depositors together, may nominate, in the prescribed manner, one person to whom in the event of the death of the sole depositor or the death of all the depositors, the amount of deposit may be returned by the banking company.

(2) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of such deposit, where a nomination made in the prescribed manner purports to confer on any person the right to receive the amount of deposit from the banking company, the nominee shall, on the death of the sole depositor or, as the case may be, on the death of all the depositors, become entitled to all the rights of the sole depositor or, as the case may be, of the depositors, in relation to such deposit to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner.

(3) Where the nominee is a minor, it shall be lawful for the depositor making the nomination to appoint in the prescribed manner any person to receive the amount of deposit in the event of his death during the minority of the nominee.

(4) Payment by a banking company in accordance with the provisions of this Section shall constitute a full discharge to the banking company of its liability in respect of the deposit:

Provided that nothing contained in this sub-section shall affect the right or claim which any person may have against the person to whom any payment is made under this section.

7. The Act enumerates that the amount of deposit has to be returned by the Banking Company to the nominee, in the event of death of the original depositor.

8. In respect of the present writ petition on hand, the learned counsel for the respondent / Bank admits the fact that the name of the writ petitioner has been nominated in the fixed deposits scheme. Thus, there is no reason to deny the disbursement of the matured amount under the fixed deposit scheme and in respect of the Savings Bank account, appropriate action may be taken by the Writ petitioner to resolve the issue in the manner known to law.

9. It is made clear that in the event of a nomination, the Bank is bound to honour the same by disbursing the amount in favour of the nominees. However, if any dispute prevails in respect of the claim regarding the deposit amount, the Bank is entitled to get an undertaking from such nominee at the time of disbursement of the matured deposit amount and the nominee are bound to give such an undertaking. This being the principles to be followed, there is no reason to deny the disbursement of the matured deposit amount infavour of the writ petitioner. Accordingly, the respondents are directed to disburse the fixed deposit amount along with the interest in favour of the nominee within a period of two weeks from the date of receipt of a copy of this order.

10. Accordingly, the writ petition stands allowed. No costs.

Sd/--
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sk/kkn
To

1.The Regional Manager,
State Bank of India,
No.22, 6th East Cross Street,
Gandhi Nagar,
Vellore - 632 006,
Vellore District.

2.The Branch Manager,
State Bank of India,
Kalavai Branch - 632 506,
Vellore District.

+1cc to Mrs.S.R.Sumathy, Advocate SR.NO.57468
+1cc to Mr.RajeshKhanna, Advocate SR.NO.57580

sm:12.9.2018

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