

HON' BLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.2542 of 2017

ORDER:

Heard both sides. The prayer in the writ petition reads as follows:-

“to issue a Writ, Order or Direction more fully one in the nature of Writ of Mandamus seeking direction to the respondent Indian Bank to release all the term deposits amounts made by the petitioner deceased father by name Dr.Bonepalli Venkateswara Rao(Dr.B.V.Rao) including articles i.e. gold lying in the locker before the 3rd respondent bank without insisting the succession certificate and it is not required under the law and as per the judgments of the High court and as per the RBI guidelines for the reason, there is no other claimant and to pass such other order or orders.”

In fact, the very decree in O.S.No.62 of 2004, dt.31.12.2009 obtained by the writ petitioner/ plaintiff against the respondents 2 and 3 of the writ petition who are the defendants 3 and 4 concerned, it reads with the following 4 conditions as:-

1. that the plaintiff and the 1st defendant be and are hereby declared as Class-I heirs of late Bonepalli Venkateswararao (Dr.B.V.Rao);
2. that the plaintiff be and hereby is declared as entitled to receive Item Nos. I to III of the plaint schedule properties;
3. that the plaintiff do obtain Succession Certificate from a competent Court of Law in respect of the plaint schedule properties and the defendants 3 and 4 do disburse the schedule mentioned movables to the plaintiff on production of the Succession Certificate;
4. that each party do bear its own costs.

In fact once that is the condition (condition No.3 supra) to obtain succession certificate, the prayer in the writ petition not to insist the succession certificate does not arise to consider but for remedy of the writ petitioner pursuant to the decree in O.S.No.62 of 2004 is to amend the decree if at all not requires any succession certificate, if necessary, by filing any review in the said suit. If at all any such review application is filed within one month from the date of receipt of the order, the trial

Court in O.S.No.62 of 2004 shall entertain the review petition without insisting for a period of limitation if otherwise in order.

Having regard to the above, the Writ Petition is disposed of. Consequently, miscellaneous petitions, if any, pending in this writ petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

20.04.2018

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