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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 3921/2018

SURABHI ADVANI AND ORS.

..... Petitioners

Through: Mr Tarique Siddiqui and Ms Reetika
Gupta, Advocates.

versus

STATE BANK OF INDIA

..... Respondent

Through: Mr Sunil Sehrawat, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **06.09.2018**

1. The petitioners have filed the present petition, *inter alia*, praying as under:-

“(i) direction to the respondent Bank to release the amount lying in SB Account No.10464169352 and Terms Deposit Account 30562231876 in the name of Late Smt. Kamlesh Rani in favour of the petitioners herein.”

2. It is stated that the petitioners are the children of Shri Kamlesh Rani who has since expired. Petitioner no.1 is aged 24 years; petitioner no.2 is aged 23 years; petitioner no.3 is aged 16 years and petitioner no.4 is aged 14 years. The petitioners' mother was an employee in Municipal Corporation of Delhi. She expired on 17.05.2005. It is stated that at the time of her demise, she was suffering from throat cancer and was under the care of her father (Shri Deen Dayal Dudeja). The petitioners have made certain allegations against the father of the petitioners (Shri Rajinder Advani). It is

also stated that he did not take care of Late Smt. Kamlesh Rani during her struggle with cancer. It is not necessary to examine the allegations against Shri Rajinder Advani, except to note that the petitioners claim that he has not been in touch with them for over past ten years and they do not know his whereabouts.

3. It is stated that Smt. Kamlesh Rani has left behind a Will dated 24.01.2005 bequeathing all her properties to her four children (the petitioners herein). After her demise, Shri Rajinder Advani filed an application (numbered as suit no.106/2007 captioned *Rajinder Advani v. The State*) for a Succession Certificate. The same was objected to by Shri Deen Dayal Dudeja, father of Late Smt. Kamlesh Rani, who has been appointed as an executor in the Will dated 24.01.2005. Shri Rajinder Advani abandoned the said proceedings and suit no.106/2007 was dismissed in default on 21.10.2014. The petitioners also applied for Succession Certificate. However, the said petition (numbered as suit no.44/2015 captioned *Surbhi Advani v. The State & Ors.*) was also dismissed by an order dated 02.07.2015, in view of the Will dated 24.01.2015. The controversy in the present petition relates to the funds, which are lying to the credit of deceased Smt. Kamlesh Rani in the bank account maintained with the respondent bank. This Court is informed that the said funds are to the extent of approximately ₹4 lakhs. It is stated that petitioner nos.1 and 2 are in dire need of funds to continue their education and are unable to access the funds for want of a court order/probate.

4. This Court is of the view that it would not be apposite to deny

petitioner nos.1 and 2 access to the said funds pending the petitioners moving for probate of the Will dated 24.01.2005.

5. There is no dispute that the petitioner are legal heirs of Late Smt. Kamlesh Rani. Shri Rajinder Advani has also not set up a Will (he had applied for the Sucession Certificate on the basis that Smt Kamlesh Rani had died intestate). Thus, at best, Shri Rajinder Advani would be entitled to 1/5th share in the estate of Late Smt. Kamlesh Rani. In this view, this Court considers it apposite to direct that part of the funds of Late Smt. Kamlesh Rani available with the State Bank of India be released to petitioner nos.1 and 2 in order to continue their education, and the remaining funds be kept in an interest bearing fixed deposit to be renewed successively till petitioner nos.3 and 4 attain the age of majority. It is also apposite that the interest accrued on the said deposit be disbursed to Shri Deen Dayal Dudeja, their material grandfather to be utilized for their benefits.

6. Accordingly, it is directed as under:-

- a. That a sum of ₹80,000/- each shall be released to petitioner nos.1 and 2 on them giving an undertaking to refund the same incase any claim is brought by Shri Rajinder Advani or any other person.
- b. The balance amount would be kept in a fixed deposit. The interest accrued on the same on quarterly basis would be released to Shri Deen Dayal Dudeja, the maternal grandfather of the petitioners, which would be utilized for the benefit of petitioner nos. 3 and 4.

7. The petitioners would also apply for a probate of the said Will (dated 24.01.2005). On the probate being granted, the fixed deposit shall be released in favour of the legatees.

8. The petition is disposed of with the aforesaid directions.

VIBHU BAKHRU, J

SEPTEMBER 06, 2018
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