

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(C) No. 1209 of 2019

1. Ramesh Gandhi, S/o. Shri Jaywant Raj Gandhi, Aged About 57 Years, R/o. B-23, Wallfort Enclave Phase 1 Lalpur Raipur, District- Raipur, Chhattisgarh.
2. Rahul Gandhi, S/o. Ramesh Gandhi, Aged About 32 Years, R/o. B-23, Wallfort Enclave Phase 1 Lalpur Raipur, District- Raipur, Chhattisgarh.

---- Petitioners

Versus

IDBI Bank Ltd. Through Its Branch Manager, Pachpedi Naka Chowk, Raipur, Chhattisgarh.

---- Respondent

For Petitioners	:	Mr. Vaibhav P. Shukla, Advocate
For Respondent	:	Mr. Prashant Gupta, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

06.05.2019

Heard

1. This petition is filed with a prayer to direct the Bank to make payment of matured FDR in favour of the petitioners for the amount deposited by the deceased Late Shri Jaywant Raj Gandhi. The particulars of the amount are as under : -

FD's with Nomination

Fixed Deposit Number	Amount (Principal Amount) in Rs.	Type	Nominee
1294106000008174	500000	Normal FD	Rahul Gandhi
1294106000008075	100000	Normal FD	Rahul Gandhi
1294107000001335	150000	Tax FD	Rahul Gandhi
1294107000000912	150000	Tax FD	Rahul Gandhi
0049107000076793	100000	Tax FD	Rahul Gandhi
Total Amount (In Rs)	1150000		

FD's without Nomination

Fixed Deposit Number	Amount (Principal Amount) in Rs.	Type	Nominee
1294106000008433	2100000	Normal FD	Not Registered
1294106000008440	2000000	Normal FD	Not Registered
1294106000008693	1000000	Normal FD	Not Registered
1294104000001557	150000	Tax FD	Not Registered
Total Amount (In Rs)	5250000		

2. According to the petitioner, the legal heirs certificate was obtained by the petitioners that he has two sons namely Uttam Chand Gandhi and Ramesh Gandhi, petitioner No.1, and grandson of the deceased Jaywant Raj Gandhi is petitioner No.2. The deceased left behind three daughters namely Smt. Prakash Baradia, Smt. Shakuntala Munnot & Smt. Meena Golchha. It is contended that the deceased has nominated Rahul Gandhi, petitioner No.2 to be his nominee for the F.D. and certain amount which was transferred from the Saving Account and Fixed Deposit was created and the nomination of Rahul Gandhi was not registered, therefore, the amount could not be paid.
3. Learned counsel for the petitioner submits that as per the Bank Instructions, the Bank can pay the amount in its discretion when the balance is above Rs. 5 Lakhs and can waive Succession Certificate after obtaining Affidavit cum Indemnity (Stamped), No Objection From Legal Heirs, Asset & Liability Statement of Sureties, Documentary Proof of worth of Sureties & ISA of Sureties are furnished. It is stated that the deceased has nominated his grandson Rahul Gandhi in respect of six FDRs for which the amount was paid, however, for the rest of the four, the amount was not released though nomination was made in Savings Account from which FDR are created and Bank can pay the amount as per the direction of the Reserve Bank as aforesaid.
4. During the course of hearing on the last date, the Branch Manager namely

Pramod Kumar was present along with his counsel. It was stated that in respect of six accounts nominee was there as such amount was paid. However, in respect of four accounts since the nominee was not there, therefore, the amount could not be paid.

5. Perused the documents filed alongwith this petition. The legal heirs certificate has been issued by the Tahsildar filed as Annexure P-11, which shows that two sons of the deceased are alive namely Uttam Chand Gandhi and Ramesh Gandhi and three daughters namely Smt. Prakash Baradia, Smt. Shakuntala Munnot & Smt. Meena Golchha. The affidavit of Uttam Chand Gandhi, one of the brother, is placed on record, which shows he do not have any objection if the amount is given to Ramesh Gandhi & Rahul Gandhi. Likewise, an affidavit of Prakash Baradia, Shakuntala Munnot & Meena Golchha, daughters of the deceased have been placed on record. All the legal heirs have stated that they do not have any objection to pay the amount to the petitioners Ramesh Gandhi & Rahul Gandhi.
6. Perused the checklist as has been provided as per the RBI guidelines. It states that for the balance above Rs.5 Lakhs, Succession Certificate can be waived when Affidavit cum Indemnity of the claimants duly stamped are provided, No Objection from Legal Heirs, Asset and Liability Statement of Sureties, Documentary Proof of the worth of Sureties/Guarantors and ISA of Sureties/Guarantors are produced. In this case, the affidavit of other legal heirs Uttam Chand Gandhi and three daughters namely Prakash Baradia, Shakuntala Munnot & Meena Golchha have been placed on record wherein they have stated that there is no objection if the amount is paid to Ramesh Gandhi & Rahul Gandhi.
7. Under the circumstances, in respect of four Fixed Deposit Accounts, which are mentioned herein,

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if the compliance is made by the petitioners by filing the affidavit cum indemnity duly stamped, no objection from legal heirs, asset and liability statement of sureties/guarantors, documentary proof of the worth of sureties and ISA of sureties if are produced, then the Bank shall be obliged to release the aforesaid amount of the FDR in favour of the petitioners Ramesh Gandhi & Rahul Gandhi, jointly.

8. With such observation, the petition stands disposed of. In the peculiar facts of this case, it shall not be treated as a precedent for the other cases.

Sd/-
Goutam Bhaduri
Judge

Ashok