

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.

WRIT PETITION NO. 4133 OF 2018

Bhagwat Damu Patil & Anr.

.... Petitioners

Versus

The Branch Manager & Anr.

..... Respondents

..
Shri. Praveen B. Gamot, Advocate for the petitioners
Shri. N. T. Tribhuvan, Advocate for respondent No. 1
Shri. Farooqui K. N., Advocate for respondent No. 2
..

**CORAM : S. V. GANGAPURWALA
AND
A. M. DHAVALA, JJ.**

DATE : 9TH APRIL, 2019

ORAL ORDER:

1. Heard learned counsel for the respective parties.
2. The petitioner seeks directions against the respondents to release the pension from account No. 2160145041 to the petitioner No. 1 on behalf of petitioner No. 2.
3. It appears that, in First Appeal No. 2985 of 2016, under order dt. 07.10.2016 the learned Single Judge of this Court cancelled

the Guardianship Certificate and directed the parties to approach the competent authority. The petitioner and present respondent No. 2 approached the competent authority. In the meantime, the present respondent No. 2 also filed Writ Petition bearing No. 2583 of 2017. Under order dt. 06.07.2017, the Division Bench of this Court observing that the present respondent No. 2 has the guardianship certificate directed release of the pension amount in favour of present respondent No. 2. On 21.11.2017, order is passed by the competent authority thereby cancelling the guardianship certificate issued in faovur of respondent No. 2 and issued the order of guardianship in favour of the present petitioner.

4. The learned counsel for respondent No. 2 submits that, the respondent No. 2 has challenged the said order dt. 21.11.2017 by filing Writ Petition before this Court. However, no prohibitory orders are passed in his favour. The parties will have to abide by the certificate of guardianship issued by the competent authority unless the said certificate is set aside or the operation of the same is stayed.

5. In light of the above, in view of the guardianship certificate dt. 21.11.2017, the bank may release the amount of compensation payable to petitioner No. 2 in favour of petitioner No. 1. The

petitioner No. 1 shall give an undertaking to the Bank that petitioner No. 1 will use the said amount for welfare of the petitioner No. 2. The petitioner No. 1 shall also maintain the account of amounts spent on respondent No. 2 from the said pension amount.

6. The present order would be subject to any orders that would be passed by the court in a petition filed by present respondent No. 2 against the guardianship certificate dt. 21.11.2017.

7. The Writ Petition is disposed of. No costs.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde