

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2019

CORAM

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.27411 of 2016
in W.M.P.No.23621 of 2016

1. C.Shanthamma
2. N.Shyam Raj.
3. N.Saraswathi
4. N.Swapna
5. N.Manojkumar

Rep by his Mother Natural Guardian Shanthamma ... Petitioners

--Vs--

1. Indian Bank
Represented by its Managing Director and
Chief Executive Officer,
P.B.No.5555, No.254-260,
Avvai Shanmugham Salai,
Royapettah, Chennai 600 014.
2. Indian Bank
Represented by its Branch Manager,
Mathakondapalli Branch,
No.1/230, Thally Road,
Mathakondapalli,
Denkanikottai,
Krishnagiri District 635 114.

3. K.Bhagyamma

... Respondents

Prayer: Writ petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 and 2 herein from anyway parting with the monies of the deceased C.Karaganna now presently transferred in the name of the third respondent K.Bhagyamma bearing account numbers FD.No.6389961388, RIP 6382931098, RIP-6382930991 and RIP 6382931145 and Savings Bank Account Number 566384833 without the third respondent herein giving an undertaking before this Court that the third respondent herein pay the petitioners herein pay their legitimate share of monies in the above said Bank Accounts.

For Petitioners : Mr.V.Sakkarapani
For Respondent-1 : Mr.T.Sundar Rajan
For Respondents 2 & 3 : Served-No Appearance

O R D E R

The petitioner has filed the above Writ Petition seeking to issue a Writ of mandamus directing the respondents 1 and 2 herein from anyway parting with the monies of the deceased C.Karaganna now presently transferred in the name of the third respondent K.Bhagyamma bearing account numbers FD.No.6389961388, RIP 6382931098, RIP-6382930991 and RIP 6382931145 and Savings Bank Account Number:56638483.

2. The facts of the case are as follows:-

One C.Karaganna had two children, namely, K.Nagaraju @ Girish, who is the husband of the first petitioner and K.Bhagyamma, who is the third respondent herein. The said Karaganna had sold some of his ancestral properties and deposited the sale proceeds into the bank account with the second respondent-Bank. The first petitioner is the wife of the said K.Nagaraju @ Girish and petitioners 2 to 4 are their children. The original depositor/C.Karaganna died on 02.03.2016 leaving behind the petitioners and the third respondent herein as his legal heirs. As the mother of the third respondent had predeceased her, late C.Karaganna had appointed the third respondent-K.Bhagyamma, who is his daughter, as nominee. After the death of the said C.Karaganna, the third respondent had approached the Bank and got released the deposits. The petitioners had issued a legal notice dated 28.04.2016 stating that they have also shares in the properties and the nominee is the custodian to receive the amount and the amounts will not vest absolutely with the nominee alone. As the third respondent was shown as the nominee in the accounts, she was given the amounts by the second respondent-Bank.

3. The learned counsel for the petitioners placed his reliance on the judgment of the Hon'ble Supreme Court reported in (2010) 10 SCC 671 in RAM CHANDER TALWAR AND ANOTHER -VS- DEVENDER KUMAR TALWAR AND OTHERS, wherein, it has been held as follows:.

"5....But it by no stretch of imagination makes the nominee the owner of the money lying in the account. It needs to be remembered that the Banking Regulation Act is enacted to consolidate and amend the law relating to banking. It is in no way concerned

with the question of succession. All the monies receivable by the nominee by virtue of Section 45-ZA(2) would, therefore, form part of the estate of the deceased depositor and devolve according to the rule of succession to which the depositor may be governed."

4. As stated earlier, the nominee cannot be the owner of the amount, as she receives the amount from the Bank in trust and the amount would form part of the estate of the deceased depositor. However, the petitioners cannot maintain the Writ Petition seeking for a direction to the Bank not to part with the amount. Admittedly, the amounts were already parted with by the Bank as per the rules to the nominee. If at all, the petitioners have got any right, it is open to them to seek appropriate remedy, if they are so advised.

5. With the above observations, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

srn

To

1. The Managing Director and
Chief Executive Officer,
Indian Bank, P.B.No.5555, No.254-260,
Avvai Shanmugham Salai,
Royapettah, Chennai 600 014.

2. The Branch Manager, सत्यमेव जयते
Indian Bank
Mathakondapalli Branch,
No.1/230, Thally Road,
Mathakondapalli,
Denkanikottai, Krishnagiri District 635 114.

+1cc to Mr.T.Sundar Rajan, Advocate, S.R.No.21312

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GJ(CO)
CB(23/04/2019)