

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2019

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 29659 of 2018

1. R. Gnana Deebiga

2. M. Shanthakshi (minor, aged about 4 years)
(Rep. by her mother and natural guardian
the First Petitioner)

... Petitioners

-Vs-

1. The Manager/Authorized Signatory,
IDBI Bank Ltd., Ashok Nagar Branch,
No. 44/86, 4th Avenue,
Near R3 Police Station,
Ashok Nagar, Chennai - 600 083.

2. The Manager/Authorized Signatory,
State Bank of India (SBI),
Selaiyur Branch, No. 959, Velacherry Road,
Selaiyur, Chennai - 600 073.

3.M. N. Subburaman
(impleaded vide order dated 10.06.2019
in W.M.P. No. 14588 of 2019)

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondents to pay the due share of the Petitioners with interest to them on the amount maintained by the First Petitioner's husband while in his life time with the Respondents Bank for which the First Petitioner has made representations dated 21.02.2018 to the First Respondent and on 26.02.2018 to the Second Respondents and also caused lawyer's notices dated 25.05.2018 to the Respondents.

For Petitioners : Mr. T Ashok Raj
For Respondents : M/s. Mothilal & Goda (for R1)
Mr. M. Devaraj (for R2)
R3 - Tapal returned.

O R D E R

The Petitioners are the wife and daughter of the deceased S. Maheswaran, who was having bank accounts with the First and Second Respondents, in which he had named his father, who is the Third Respondent, as nominee.

2. The Writ Petition has been filed for a direction to the Respondents to pay their due share in the accounts of the deceased S. Maheswaran with interest.

3. Learned Counsel for the First and Second Respondents, on instructions, state that even before the filing of the Writ Petition, the amounts in the account of the deceased S. Maheswaran has already been paid to the Third Respondent.

4. The Hon'ble Supreme Court of India in in Sarbati Devi -vs- Usha Devi [(1984) 1 SCC 424] has held as follows:-

"12. The nomination only indicates the hand which is authorised to receive the amount, on the payment of which the insurer gets a valid discharge of its liability under the policy. The amount, however, can be claimed by the heirs of the assured in accordance with the law of succession governing them."

5. When it is pointed out that in view of the aforesaid legal position of the effect of payment to nominee, which is squarely applicable to the facts of the present case, the Petitioners would have to work out their remedies for the amount claimed from the Third Respondent by appropriate legal proceedings before the competent forum in the manner recognized by law, Learned Counsel for the Petitioners seeks permission of this Court to withdraw the Writ Petition with liberty to resort to the same and he has made an endorsement to that effect, which is recorded.

6. Accordingly, the Writ Petition is dismissed as withdrawn granting such liberty. No costs.

vjt

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

+1cc to Mr.R.Malaichamy, Advocate, SR.No.64599
+1cc to Mr.Mothilal & Noda, Advocate, SR.No.64866
+1cc to Mr.M.Devaraj, Advocate, SR.No.64829

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Kak (27/08/2019)