

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.4951 of 2016 (O&M)

Date of Decision: April 08, 2019

Deepak Kumar

...Appellant

Versus

Neena Rani @ Manju Rani & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Jasbir Rattan, Advocate,
for the appellant.

AMIT RAWAL, J. (Oral)

The present Regular Second Appeal is directed at the instance of the appellant-defendant against the decretal of the suit preferred by none else but the sisters claiming themselves to be legal heirs of their mother Kanta Devi and for recovery of ₹ 4,23,880/- allegedly withdrawn by defendant No.1 from the accounts of Kanta Devi.

Plaintiffs alleged that Kanta Devi was their mother, who died intestate on 29.01.2009. She had several accounts with defendant Nos.2 and 3, i.e., four accounts with the Punjab National Bank and two accounts in the name of Kanta Devi widow of Ram Murti and other two accounts were joint accounts with defendant No.1. Kanta Devi had several joint accounts with the Post Office. However, the defendant on her demise, withdrawn the entire amount without protecting the interest of the plaintiffs.

Defendant opposed the suit and stated that it was a joint account and, therefore, he had rightly and legally withdrawn the amount.

Since the parties were at variance, the trial Court framed the following issues:-

- “1) Whether the plaintiffs are entitled to declaration as prayed for? OPP*
- 2) Whether the plaintiffs are entitled to recovery as prayed for? OPP*
- 3) Whether the suit of the plaintiff is not legally maintainable in the present form? OPD*
- 4) Relief.”*

Plaintiffs, in support of the evidence, examined four witnesses, i.e., PW-2 Ajit Singh Postal Clerk, PW-3 Parminder Singh Assistant Main Post Office Dhuri, PW-4 Mohitpreet Singh Clerk PNB, Dhuri. On the other hand, defendant himself stepped into the witness box and closed the evidence.

Mr. Jasbir Rattan, learned counsel appearing on behalf of the appellant-defendant submitted that since the evidence brought on record revealed the defendant to be a joint account holder, but despite that the trial Court decreed the suit only in part. ₹ 1,29,150/-, i.e., 1/3rd share was withdrawn from two accounts along with interest @ 12% per annum from the date of withdrawal, but the Lower Appellate Court by relying upon the judgment in **Anumati Versus Punjab National Bank, (2004) 8 Supreme Court Cases 498**, decreed the suit in toto by accepting the cross objections and awarded the interest. The aforementioned judgment is not applicable to the present case as it involved only the interpretation of tripartite agreement and the expression “either or survivor” clause, which was not the bone of contention for withdrawal of the amount.

I have heard the learned counsel for the appellant-defendant, appraised the paper book and of the view that the findings arrived by the

Lower Appellate Court are perfect, legal and justified.

It is a matter of record that Kanta Devi died intestate. Even if there was a joint account, it is not established that the entire amount allegedly deposited was of defendant No.1. The daughters had equal right to succession. Lower Appellate Court had reduced the interest from 12% to 6% and decreed the suit in toto, i.e., for recovery of ₹ 4,23,880/- by dismissing the appeal of the defendant.

The argument of the learned counsel must fail as the judgment relied upon is squarely applicable to the case as in Para 11 thereof, it was held that the parties to a joint account are not automatically authorized to pledge each other's credit. The banker has no right to set off the credit balance in the joint account except in respect of another joint account of the same parties, meaning thereby whatever the amount was lying in the bank, both the account holders have equal right and since the mother had died intestate, the daughters had a right to inherit the same.

For the reasons mentioned above, no ground for interference in the findings under challenge is made out, much less involvement of any substantial question of law. Resultantly, the appeal is dismissed.

April 08, 2019
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No