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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RSA 128/2019**
PRADEEP KUMAR

..... Appellant

Through : Mr.Ravi Joshi, Advocate.

versus

THE CHAIRMAN STATE BANK OF INDIA & ANR

..... Respondents

Through : None.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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08.07.2019

CM APPL Nos.30201-02/2019

Exemption allowed, subject to all just exceptions.

The application(s) stand disposed of.

RSA 128/2019 & CM APPL No.30200/2019

This second appeal is filed against the judgment dated 23.04.2019 passed by the learned ADJ-2, East District, Karkardooma Courts, Delhi in RCA No.20/2019 whereby the judgment dated 08.01.2019 passed by the learned ACJ-CCJ-ARC (East), Karkardooma in Civil Suit No.394/2018 was reversed. It is the case of the appellant the appellant was made a joint holder of the savings bank account No.30099834642 with the deceased namely Smt.Brij Bala Sharma. The said account was with respondent no.2 herein.

A written statement was filed by the respondents in the said civil suit no.394/2018 along with an application under Order VIII Rule 1 CPC but the said application was never decided and ultimately

the learned Civil Court held since there is no issue involved in the suit, it was decreed in favour of the appellant herein and against the respondents.

However the respondents went in appeal RCA 20/2019 and the first Appellate Court reversed the order of the learned Civil Judge on the following grounds *a)* the application under Order *VIII* Rule 1 CPC was never decided by the learned ACJ hence there was no written statement on record and *b)* the appellant became the joint holder of the savings bank account of the deceased just three months prior to the death of deceased suffering with cancer and there already was a nominee of such bank account. Not only this the legal heirs of deceased were also claiming the amount lying in such account and hence the respondents were objecting to release it to the appellant.

Ultimately in first appeal the matter was remanded to the learned Civil Court to decide the issue, if ‘former or survivor’ would exclude legal heirs. Hence I find no illegality in the judgment passed by the learned first Appellate Court and since this issue is now already pending before the learned Civil Court, nothing much needs to be done by this Court.

In view of the above the appeal and pending applications are dismissed.

No orders as to costs.

YOGESH KHANNA, J.

JULY 08, 2019

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