

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 891 of 2020

1. Smt. Belwanti Devi, W/o Shri Gulab Shaw, Aged About 62 Years, R/o Quarter No. J - 741, Janta Colony, Tilak Nagar, Gidhiyari, Police Station: Gudhiyari, District : Raipur, Chhattisgarh

---- Petitioner

Versus

1. State Bank Of India Through The Branch Manager, State Bank Of India, Branch Gudhiyari, District : Raipur, Chhattisgarh
2. The Branch Manager, State Bank Of India, Branch Gudhiyari, District : Raipur, Chhattisgarh
3. The Branch Manager, State Bank Of India , Branch Shivanand Nagar, District : Raipur, Chhattisgarh

-----Respondents

For Petitioner	: Mr. Rishi Rahul Soni, Advocate
For Respondents	: Mr. P. R. Patankar, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

11.06.2020

1. The present writ petition has been filed seeking relief for a direction to the respondents to allow the petitioner to withdraw the money which stands credited in the Saving Bank A/c with the respondents in the name of Shri Gulab Shaw, the husband of the petitioner.
2. The brief facts of the case is that, the husband of the petitioner was an employee of Central Inland Fisheries Research Institute affiliated with Indian Council of Agricultural Research. The husband of the petitioner retired from service w.e.f., 31.01.2003. That for the last couple of years, the petitioner's husband was not keeping good mental health. That suddenly on 23.12.2017, the husband of the

petitioner went missing from Raipur and a report in this regard has already been lodged with the Police Station: Gudhiyari, District : Raipur on 23.12.2017 and the case has been registered as Missing Person Case No. 120/17. Since then, there is no whereabouts of the said person and the petitioner finds it difficult for her sustenance. The petitioner's husband was a pensioner and he had his Savings Bank A/c No. 10167225250 with the respondents-bank. There are about more than Rs. 2 lac credited in the said account, which the petitioner wants to withdraw; so that she can sustain herself. The respondents, however, did not release the said amount on account of the fact that it was not a Joint Account as the account stood exclusively in the name of Shri Gulab Shaw.

3. The contention of the counsel for the bank is that since the person is missing unless the husband of the petitioner is proclaimed to have civil death, which is possible only after seven years of missing as per Section 108 of the Indian Evidence Act, the respondent-bank would find it difficult. At this juncture, the counsel for the State Bank of India submits that there is a Circular No.: NBG/S&P-DECEASED/30/2009-10 issued by the corporate office of the respondent-bank on 12.03.2020 which is based upon an instruction received from the Reserve Bank of India, dealing with the claims regarding settlement in-respect-of missing persons. The said circular submits that in the given case, the respondent-bank subject to the claimant filing an FIR and on furnishing indemnity from the claimant and also showing that they are in fact the legal heirs of the said missing person can draw an amount of Rs. 1 lakh.

4. Given the said circular dated 12.03.2010, this Court is of the opinion that once when it is established by the claimant that she is the wife of the missing person. In the interest of justice, it would be relevant that the petitioner be allowed to withdraw an amount to the extent of Rs. 1 lakh, subject to furnishing indemnity as well as furnishing documents to show that she is the wife of a missing person and also producing the non-traceable report from the police authority. However, the remaining balance in the said account would be settled only after the petitioner produces a declaration from the competent civil court in-respect-of civil death of the missing person. In view of the same, the petitioner is directed to approach the respondents for appropriate steps in this regard and the respondents in turn are also expected to take a prompt decision at the earliest. The reason this Court permits the petitioner to withdraw an amount of upto Rs. 1 lac as of now, is ensuring that the petitioner be able to sustain herself, which otherwise she may find it difficult as she is solely dependent on the pension which the missing person was receiving. Even otherwise accepting the petitioner to wait for seven years and thereafter getting decree from civil court and then coming in for settlement of account may prove fatal in the long run, as the petitioner herself would find it difficult to sustain during this period.
5. With the aforesaid observation and direction, the writ petition stands disposed-off.

**Sd/-
(P. Sam Koshy)
Judge**