

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 1935 of 2020**

1. Shiv Kumar Dubey S/o Late Ram Acchechwar Dubey Aged About 63 Years
R/o Chanwari Dand, Manendragarh, District Koriya Chhattisgarh, District :
Koriya (Baikunthpur), Chhattisgarh
2. Shobha Mishra D/o Late Ram Achhechwar Dubey Aged About 59 Years R/o
Ward No. 07, Bhalu Gudaad, Bijuri, P. S. Bijuri, District - Anuppur (M. P.),
District : Anuppur, Madhya Pradesh
3. Kiran Dubey W/o Late Ram Kumar Dubey Aged About 54 Years R/o - Ward
No- 23, Mohalla - Kapoor Singh Dafai, Chirmiri, District - Koriya., District :
Koriya (Baikunthpur), Chhattisgarh
4. Karan Dubey S/o Late Ram Kumar Dubey Aged About 27 Years R/o - Ward
No - 23, Mohalla - Kapoor Singh Dafai, Chirmiri, District - Koriya., District :
Koriya (Baikunthpur), Chhattisgarh

---- Petitioner**Versus**

1. The Branch Manager Through The Central Bank Of India, Branch -
Manendragarh, District Koriya Chhattisgarh, District : Koriya
(Baikunthpur), Chhattisgarh
2. Neelam Dubey D/o Late Ram Acchechwar Dubey Aged About 42 Years
R/o - Moharpara, Manendragarh, District - Koriya, (C.G.), District :
Koriya (Baikunthpur), Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Gyan Prakash Shukla Adv.
For Respondent	:	Mr. Anand Shukla, Adv.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****16/09/2020**

1. The present writ petition has been filed questioning the legality and
validity of the letter dated 04.08.2020 Annexure P/1 passed by the
respondent No. 1.
2. The dispute in the present writ petition is in-respect to the amount lying
deposited in the savings account of the respondent No. 1- the Branch
Manager in the name of one Late Shri Ram Acchechwar Dubey who
has died on 07.04.2020. As per the petitioners, in the said savings
account, the nominee initially was petitioner No. 4, however
subsequently the nominee stands changed in favour of the respondent
no. 2.. The apprehension of the petitioners is that now vide the

impugned order the Annexure P/1 in this writ petition, the respondent Bank May release the entire amount in favour of the respondent No. 2 who may receive the entire amount without sharing it with the other legal heirs of the deceased account holder.

3. Considering the nature of dispute involved in the writ petition, this Court is of the opinion that since it involves disputed questions of facts and for which recording of evidences would be necessary, which under the writ jurisdiction it will not be permissible and the proper remedy for the same would be for the petitioners to approach the concerned Civil Court for establishing their rights and entitlement over the amount lying in the Bank of the deceased of which the petitioners are also claiming themselves to be the legal heirs.
4. The contention of the petitioners is that because of the effect of the Covid -19 Pandemic, the Civil Courts are not functioning smoothly in as much as the civil matters are not being taken up, only Bail matters, urgent matters, etc., are being taken up. Therefore, he has approached this Court enabling them to get some breathing time to approach the concerned Civil Court. Meanwhile, the Bank may protect the interest of the petitioners by not transferring the entire amount in favour of the respondent No. 2, and even if they do transfer, it should be subject to taking some security or guarantee from the respondent No. 2.
5. Given the said submission made by the Counsel for the petitioners, this Court is of the opinion that admittedly the nature of dispute raised in the present writ petition are factual disputes which can not be decided under the Writ Jurisdiction of this Court.
6. However, in the back-drop of the Civil Courts not taking up civil matters, the petitioners should not be rendered remedy less for ventilating their grievances. Accordingly, this Court at this juncture disposes of the present writ petition directing the petitioners to file an appropriate Civil

suit before the concerned Civil Court at District Manendragarh. Upon filing a Civil suit along with an application for injunction the concerned District Judge is expected to take appropriate steps in allotting the matter to the concerned Civil Judge to be taken up as an urgent matter.

Let a Civil suit be filed within a period of 2 weeks from today.

7. Meanwhile, purely as an interim measure, till the petitioners file a civil suit along with an application for injunction before the concerned Civil Court, if the amount has till date not been released by the respondent No. 1 to the respondent No. 2, the respondent No. 1 is directed not to release the said amount in favour of the respondent No. 2 during these 15 days time during which the petitioner shall be filing a civil suit.

8. Accordingly, the writ petition stands disposed of.

Sd/-

(P. Sam Koshy)
Judge

Jyotijha