

MAT 554 of 2022
IA NO: CAN/1/2022
Minor Ms. Srishikha Kar Purkayastha
Vs.
The State Bank of India and Anr.

Mr. Biswaroop Bhattacharya,
Mr. Debabrata Das,
Mr. Pradyot Kumar Das,
Mr. Saptarshi Mukherjee,
Ms. Mayuri Ghosh, Advocates
....for the appellant

Ms. Deblina Lahiri,
Mr. Mrinmoy Chatterjee, Advocates
...for the respondent Nos. 1 and 2

This appeal at the instance of the writ petitioner is directed against the order of the learned Single Judge dated 29.03.2022 whereby W.P.A. No. 3038 of 2022 has been dismissed reserving liberty to the appellant to apply for appropriate remedies, inter alia, under the Indian Succession Act before the competent authority.

The appellant had approached the writ Court with the plea that she is a minor, aged about 14 years represented by her father and natural guardian and is the only child born out of wedlock of her father and her deceased mother Smt. Sharmistha Kar Purkayastha. In the matrimonial dispute, a decree of divorce was passed and custody of the petitioner was granted to the father.

The appellant's mother had expired on 7th of June, 2020 and the appellant claims that she is the only surviving legal heir and as the only daughter entitled to the estate and properties of her mother. Her mother had hired a locker facility with the respondent bank and after the death of her mother she had applied to the bank for transfer of locker facility but the bank authorities were insisting on a probate/letter of administration/succession certificate, hence the appellant had approached the writ Court.

Learned Single Judge by the order under appeal taking note of the guidelines of the bank had disposed of the petition with the observations as noted above.

Submission of the learned Counsel for the appellant is that the appellant is the only daughter of her deceased mother and is the only legal heir, therefore, she should not be required to submit letters of administration/probate/succession certificate and that she is ready to furnish indemnity bond.

Opposing the prayer, learned Counsel for the respondent has submitted that the appellant is not a nominee in the locker, therefore, the requisite procedure is required to be followed.

We have heard learned Counsel for the parties

and perused the record.

It is undisputed before this Court that the appellant is not a nominee in the locker which was in the name of her mother. The guidelines issued by the respondent SBI in respect of access to safe deposit lockers in the cases of without survivor/nominee clause provide as under:

“10.2 Access to the Safe Deposit Lockers/Return of Safe Custody Articles

(without survivor/nominee clause):

a) In case where deceased locker hirer had not made any nomination or where the joint hirers had not given any mandate that the access may be given to one or more of the survivors by a clear survivorship clause, following procedure may be adopted:

b) In case of death of a sole locker hirer (where there is no nomination) and there is a valid will, probate may be obtained, and access may be given to the executor/administrator. In other cases, access may be given to the legal representative of the deceased. In such cases death certificate and proof of the legal representation should be obtained. The legal representation would be in the form of Probate or Letters of Administration.”

In terms of the above clause, the appellant is required to furnish proof of legal representation in the form of probate or letters of administration.

The RBI circular dated 18th of August, 2021 in

clause 5.3.6 in the cases where no nomination is made provides that the instructions contained in para 5.3.2 of the policy will be taken note of. Clause 5.3.2(i) requires exercise of due care and caution, establishing the identity of the survivor and obtaining appropriate documentary evidence.

Learned Counsel for the bank has also stated before this Court that it is not known if any will was executed by the deceased.

In the above circumstances, we are of the opinion that the learned Single Judge has not committed any error in disposing of the petition reserving liberty to the appellant to apply for appropriate remedies, inter alia, under the Indian Succession Act before the competent authority. Thus, no case for interference in the appeal is made out. The appeal is accordingly dismissed.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)