

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No.30373 Of 2021
(Through hybrid mode)**

Mamata Baral

....

Petitioner

Mr. Trilochan Barik, Advocate

-versus-

***Chief Post Master General, Odisha
and others***

....

Opposite Parties

Mr. P.K. Parhi, Assistant Solicitor General

Mr. Deepak Gochayat, CGC

Mr. A.K. Sharma, AGA

CORAM: JUSTICE ARINDAM SINHA

**ORDER
14.07.2022**

**Order
No.
4.**

1. Mr. Barik, learned advocate appears on behalf of petitioner. He submits, his client is daughter of the deceased. Persons posing as wife and daughter of her father, with assistance from the postal authority, took away her father's money. Reckless allegation have been made by State and Union of India challenging his client's daughterhood.

2. Mr. Parhi, learned advocate, Assistant Solicitor General appears on behalf of Union of India and draws attention to his client's counter affirmed as an affidavit by Superintendent of Post Offices, Rayagada Division. He submits, the Monthly Income Scheme (MIS) riding on a fixed deposit was opened by the deceased, jointly with

Mrs. Indra Kilaka. The fixed deposit was for Rs.6,00,000/-. Complaint was received from petitioner on 1st September, 2021 and thereupon report obtained from Post Master, Rayagada Head Post Office. He submits, the said post office reported further that nominee in respect of the MIS account had been registered in name of Gouri Kilaka (daughter).

3. The Post Master reported further that on death of first account holder, second account holder presented the pass book and sought conversion of the account to be a single account in her name. Since single account limit is at Rs.4,50,000/-, Mrs. Indra Kilaka was allowed to withdraw Rs.1,50,000/-. This withdrawal happened on 25th August, 2021. On the next day i.e. 26th August, 2021 said Mrs. Indra Kilaka applied for premature closing of the MIS account and same was closed with credit of Rs.4,41,000/- to her individual savings bank account. Mr. Sharma, learned advocate, Additional Government Advocate appears on behalf of State.

4. Petitioner has prayed for direction upon postal authorities to pay/reimburse petitioner, deposit money of Rs.4,50,000/- since withdrawn on 26th August, 2021 from her father's MIS account. It is clear that petitioner was in the dark. The MIS account was based on fixed deposit of Rs.6,00,000/-. It became Rs.4.5 lakhs, when the

second account holder converted the joined account to a single account.

5. It appears from counter filed by Union of India/Postal Authorities that the account was opened on 11th June, 2020. The account opening form contains entry of account holders names as Mr. Paramananda Baral and Mrs. Indra Kilaka and of nominee Gouri Kilaka (daughter). There is no further document, either relied upon or referred to in the counter, for substantiating position taken by the postal authority that Mrs. Indra Kilaka was wife of the deceased or that Gouri Kilaka was his daughter. It can well be inferred that Mrs. Indra Kilaka was not married to the deceased and Gouri Kilaka is her daughter.

6. Nomination is permissible in law and it follows that acts done pursuant to nomination duly made cannot be subject to interference in judicial review. However, nomination and entitlement on being the legal heir(s) are two different things altogether. The nominee is permitted to deal in fiduciary capacity. The facts being as above, there is no reason for writ Court to interfere with action taken by the postal authorities on basis of the account opening form, the deposit made pursuant thereto or on instructions for closure thereof after death of petitioner's father. It does appear though that the account was opened

soon after petitioner's father retired from service and closed immediately on his death. There is prima facie inference that money deposited in the account belonged to petitioner's father.

7. Court has laboured to disseminate the facts in aid of petitioner so that in event she pursues for remedy in the Civil Court, she may find assistance from this order.

8. The writ petition is disposed of.

Sks

