

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.P.(C) No.38288 of 2021
(Through hybrid mode)**

Kumari Patra

.... Petitioner

Mr. S.K. Dalai, Advocate

-versus-

***Branch Manager, SBI, Humma
Branch***

.... Opposite Party

Mr. M.K. Mohapatra, Advocate

CORAM: JUSTICE ARINDAM SINHA

**ORDER
28.09.2022**

**Order
No.
03.**

1. Mr. Dalai, learned advocate appears on behalf of petitioner. He submits, his client is the mother, who lost her son on 23rd April, 2021. Disclosed as annexure-2 is legal heir certificate dated 1st August, 2021, certifying his client to be legal heir of the deceased. He submits, the son had bank account in State Bank of India, Humma Branch. There is some money lying in the account. The account was opened about 30 years ago. The son was born on 13th May, 1990. He was approximately two years old, when the account was opened. His father was nominee in the account. The father left petitioner more than 26 years ago, to set up residence in Jeypore on getting married to another woman. Referring to the schedule in

Hindu Succession Act, 1956. He submits, the son was unmarried and therefore petitioner is the Class-I heir and the father, Class-II.

2. Mr. Mohapatra appears on behalf of the bank.
3. Text of order dated 11th January, 2022 is reproduced below.

“1. Mr. Mohapatra, learned advocate appears on behalf of opposite party bank. He submits, account of the deceased person has nominee. The nominee is the father, husband of petitioner. That person is a necessary party. He refers to paragraph-6 in the petition. Petitioner has said that her husband is residing at Jeypore in Koraput district. Petitioner be directed to add petitioner’s husband.

2. Mr. Dalai, learned advocate appears on behalf of petitioner and submits, petitioner has stated in paragraph-6, all that she knows. She does not have address of the residence in Jeypore.

3. The bank is directed to give particulars of the nominee in the account of the deceased son of petitioner. This must be disclosed on adjourned date.

4. List on 17th January, 2022.

5. Interim order passed earlier shall continue till next date.”

Mr. Mohapatra hands up the account documents and submits, the father was made nominee and address given is same as that of petitioner. On query from Court he submits, the father has not

applied for transfer of the money lying in the account, as nominee.

4. Court presumes husband of petitioner is aware that his son Krushna Chandra Patra died on 23rd April, 2021. More than a year has passed since the death. During lifetime of his son he did not cause amendment in particulars of the nomination to give his present address. In the circumstances, there will be direction upon the bank to disburse the money to petitioner as the legal heir of the deceased account holder. This is because, in any event the nominee is trustee for the heir.

5. The writ petition is disposed of.

(Arindam Sinha)
Judge

Sks

