IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 06.01.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 28268 OF 2021
and
W.M.P.No.29843 of 2021

Justice. K. Swamidurai (Retd).
S/o.Kandhasamy,
No.22/1. 6th Street,
Sowrashtra Nagar,
Choolaimedu,
Chennai-94. .. Petitioner

Vs.

Union Bank of India,
Rep by its Manager,
Chennai Main Branch,
1139-Broadway,
Chennai-108. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of to call for the records pertaining to rejection letter dated 30.11.2021 through email issued by the respondent and quash the same with consequential direction to the respondent to pay the amount of Rs.43,63,770.59/- plus applicable interest standing at the credit of savings account No.332602010012204 within time frame.

For Petitioner : M/s. A. Malath Devapriyam

For Respondent : Mr. N. Somasundar

ORDER

The present petition has been filed for quashment of the impugned order dated 30.11.2021 and for a further direction to the respondent to disburse the amount of Rs.43,63,770.59 along with applicable interest lying in the credit of SB A/c No. 332602010012204 to the petitioner within the time stipulated by this Court.

2. It is the case of the petitioner that his daughter, viz., Manikumari, is the holder of account, bearing SB A/c No.332602010012204 in the respondent bank. The said Manikumari

breathed her last on 3.3.2021 and that the husband of the deceased, pre-deceased her. It is the further averment of the petitioner that the deceased has no class-I legal heir and that the petitioner is the only class-II legal heir. It is the further averment of the petitioner that through the husband's side, there is no class-II legal heir.

3. It is the further averment of the petitioner that the deceased had a sum of Rs.43,63,770.59 in her savings bank account with the respondent bank and after the death of the deceased, as the only surviving class-II legal heir, the petitioner filed a representation before the respondent along with the necessary documents, viz., the death certificate and legal heir certificate for disbursal of the said amount. However, the respondent had rejected the claim of the petitioner vide the impugned order dated 30.11.2021 against which the present petition has been filed.

4. Learned counsel appearing for the petitioner submits that as per Section 15 of the Hindu Succession Act, in the absence of Class-I legal heirs, the Class-II legal heirs are entitled to succeed to the property in the order provided in the said Section. It is the further submission of the learned counsel for the petitioner that there being no Class-II legal heir on the side of the husband of the deceased, the petitioner alone, being the only Class-II legal heir of the deceased is entitled the amount lying to the credit of the deceased in the respondent Bank. It is the further submission of the learned counsel that the guidelines of the Reserve Bank of India with regard to hassle-free settlement of claims on the death of the depositor with minimum documentation for release of the balance is not been followed by the respondent bank and the impugned order has been passed without following the guidelines laid down by the Reserve Bank of India. Therefore, he prays for setting aside the impugned order.

5. Per contra, learned standing counsel appearing for the respondent Bank submits that while the deceased was the sole surviving Class-I legal heir of her deceased husband and had in fact obtained succession certificate, however, on her death, in the absence of any issues or Will, as per Section 15 (1) (b) of the Hindu Succession Act, the heirs of the husband would take precedence over the mother and father of the deceased. In view of the same, the petitioner can claim the proceeds lying in deposit to the credit of the deceased only upon filing necessary succession certificate as otherwise, at a later point of time, if any claims are made against the bank, the bank would not be able to realise the amount from the petitioner.

6. This Court gave its careful consideration to the

submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

7. The death of the deceased stands established through the death certificate, in which it has been certified that the deceased breathed her last on 3.3.2021. The petitioner is the father of the deceased, who has filed documents to prove not only his relationship with the deceased but also his status as the Class-II legal heir of the deceased. The Revenue authorities, after conducting enquiry has issued the Class-II legal heir in favour of the petitioner.

8. The respondent takes shelter under Section 15 (1) (b) of the Hindu Succession Act, which provides that the heirs of the husband would take precedence over the mother or father of the deceased with regard to the estate of the deceased. There is no dispute about the fact that in respect of a female dying intestate, Section 15 (1) (b) of the Hindu Succession Act mandates that the the heirs of the husband would take precedence over the mother or father of the deceased. However, it is to be pointed out that it is not the case of the respondent that a rival claim has been made which prevents the respondent from disbursing the amounts in favour of the petitioner. It is to be pointed out that the daughter of the petitioner died on 3.3.2021 and death certificate has been issued on 20.3.2021. The Class-II Legal Heir Certificate has also been issued by the Tahsildar on 22.7.2021, whereinafter, necessary indemnity bond and affidavit have been submitted by the petitioner, an octogenarian, for disbursal of the amounts lying in deposit to the credit of the deceased. However, the respondent bank, vide the impugned order, without reference to the aforesaid documents, had rejected the claim of the petitioner and has asked the petitioner to submit succession certificate for settlement of the claim.

9. As already stated above, it is not the case of the respondent that a rival claim has been made, which disables the respondent from disbursing the amount. When the procedure contemplated for claiming the amount, such as death certificate and legal heir certificate has been submitted by the petitioner along with indemnity bond and affidavit, relegating the petitioner to the civil court to obtain succession certificate citing Section 15 (1) (b) of the Hindu Succession Act is wholly impermissible. The provisions of Section 15 (1) (b) of the Hindu Succession Act provides the mechanism in which succession certificate is to be issued in cases where there are rival claims. In the case on hand, there is no rival claim and a valid Class-II legal heir certificate has been submitted by the petitioner in which it has been certified by the authority that the petitioner is the only surviving Class-II legal heir of the

deceased and that there are no class-I legal heir of the deceased, who are surviving. Such being the case, a duty is cast upon the respondent, as the custodian of the money of the petitioner, to disburse the same to the lawful heirs of the deceased, of which the petitioner has been certified as the only surviving legal heir by the competent Revenue Authority. Further, it is also to be pointed out that on the death of the account holder, the respondent bank is duty bound to return the amounts lying in favour of the account holder to the legal heirs of the deceased, be it class-I legal heir or Class-II legal heir and the respondent bank, cannot, till eternity, hold the said amount citing one reason or the other, when all the documents that are necessary have been properly submitted by the petitioner.

10. There is no necessity for the petitioner to obtain succession certificate, the petitioner having been certified to be the only surviving class-II legal heir of the deceased. In the aforesaid circumstances, this Court is of the considered view that the order passed by the respondent is wholly unsustainable and deserves to be set aside.

11. Accordingly, the impugned order dated 30.11.2021 is set aside and this writ petition is allowed with a direction to the respondent to disburse the amount lying in deposit to the credit of SB A/c No.332602010012204 to the petitioner, who is the Class-II Legal Heir of the deceased Manikumari, the holder of the above savings bank account, after getting necessary indemnity bond from the petitioner. The petitioner is directed to produce a copy of this order along with the necessary documents, indemnity bond and affidavit to the respondent bank within a period of one week from the date of receipt of a copy of this order and on receipt of the same, the respondent bank shall disburse the amount in favour of the petitioner within a period of one week thereafter, keeping in mind its duty to the customer and also the further fact that the petitioner is an octogenarian. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

GLN/NHS

To

Union Bank of India,
Rep by its Manager,
Chennai Main Branch,
1139-Broadway,
Chennai-108.

+1cc to M/s.A.Malath Devapriyam, Advocate, S.R.No.1458
+1cc to Mr.N.Somasundar, Advocate, S.R.No.1576

W.P. NO.28268 OF 2021

RR(CO)
SB(08/02/2022)