

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8128 of 2023

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Sarvendra Kumar Singh Son of Kameshwar Prasad Singh Resident of H.No. 3H/327 New Patliputra Colony road no. 3H, P.S. - Patliputra, District- Patna

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Finance India, New Delhi.
2. The C.E.O., Indian Bank, Chennai
3. The General Manager, Indian Bank, Patna
4. The Branch Manager, Indian Bank, Patliputra Branch, Patna
5. The General Manager of Reserve Bank of India, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Shubhangi Pandey, Adv. Mr. Anand Vardhan, Adv.
For the Indian Bank	:	Mr. Amit Prakash, Adv.
For the RBI	:	Mr. Avinash Prakash, Adv. Mr. Ajit Kr. Sinha, Adv.
For the UOI	:	Mr. Abhay Shankar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

2 19-09-2023 The present writ petition is filed for the following relief:-

"III. For issuance of appropriate writ/writs, order/orders, direction/directions for directing upon the respondents to allow the petitioner to access his Locker no. 6 in Indian Bank, Patliputra Branch, In which petitioner is the Sole Either or Survivor of the concerned Locker after the death of other joint holders."



2. Learned counsel for the petitioner has stated that the petitioner along with his mother and father has opened a bank locker in the Respondent No. 2 Bank, Patliputra Branch, Patna. The petitioner after the death of his mother, has approached the bank for operating the locker. However, the bank officials did not allow the petitioner to operate the locker, on the ground that during the life time of his mother, she had given a letter to the bank officials directing them not to let the petitioner operate the locker without her presence. Learned counsel states that as per the terms and conditions of the agreement entered at the time of opening the locker account, the petitioner, being one of the account holders, has every right to operate the said locker. Learned counsel has further stated that as per the application made to the bank, the petitioner along with his mother and father have right to operate the locker individually or jointly. Learned counsel has drawn the attention of the Court to the application made by the petitioner along with his parents (Annexure - F series) and also the affidavit filed along with the said application to buttress his contentions. Further, learned counsel has also stated that as per the guidelines issued by the Reserve Bank of India, i.e. Respondent No. 5 herein, more particularly, Clause 5.3 which



states that in case a joint locker is opened the access should be given to the survivor. Therefore, prayed this Court to allow the present C.W.J.C.

3. Per contra, the learned counsel appearing on behalf of the bank has vehemently opposed the very maintainability of the present writ petition.

4. Learned counsel for the respondents has stated that the writ petition is liable to be dismissed on the sole ground that the petitioner has not made his siblings i.e. the brother and sister as a party respondents to the present CWJC. It is stated that the brother and sister are proper and necessary parties to the present writ petition, therefore, the writ petition is liable to be dismissed on the ground of non joinder of necessary parties. Further, it is stated that during the life time of the mother of the petitioner, his mother has given a letter directing the bank not to allow the operation of the locker by the petitioner herein. It is stated that the petitioner has kept quiet during the life time of his mother and did not operate the locker, but after the death of the mother, the petitioner has come forward seeking to operate the locker. Learned counsel has stated that the officials of the Bank are strictly following the terms and conditions enumerated in the application and the affidavit given by the



parties at the time of opening of the locker account. Learned counsel has drawn the attention of the court to Clause 15 of the affidavit to contend that once the operation of the locker is restricted on the strength of the letter given by one of the account holders, the remaining survivors have no right to operate the said locker. Further, it is stated that after the death of the mother, the bank officials have also received objections from the other legal heirs i.e. the brother and sister of the petitioner. The siblings of the petitioner have objected for the operation of the locker by the petitioner standing in the name of their mother. The claimants have to necessarily obtain a succession certificate from the competent Civil Court for claiming any right over the contents of the locker. Further, learned counsel has stated that the petitioner and his parents resided under the same address and the petitioner knowing fully well that his mother during her life time had given a letter to the bank directing them not to allow the petitioner to operate the account has kept quiet for a period of almost two years and only after the death of the mother, he is coming forward. Learned counsel has stated that bank officials have no objection for letting the petitioner operate the locker if he obtains a succession certificate from the competent Civil Court



or if a no objection affidavits are given by the other legal heirs of the late Shiv Rani Singh (the mother of the petitioner). Learned counsel has, therefore, prayed this Hon'ble court to dismiss the present writ petition.

5. A perusal of the documents filed by the petitioner reveals that the petitioner along with his parent i.e. Late Shiv Rani Singh and Late Kameshwar Prasad Sinha have opened a locker account in the respondent Bank on 20.06.2008 along with the application given for opening the account, the parties have also submitted an affidavit which enumerates the terms and conditions for operating the said locker, as per clause 15 which reads as:-

"Access shall be had to the Locker by the Hirers and in case of joint Hirers by all of them together or by such one or more of them as may indicate by special instructions to be given in writing by all of them from time to time and which instructions any one of them may cancel, in which a case access will only be allowed to all of them together.

In the event of the death of one or more Hirers of the Locker in joints names, the survivor to survivor shall be at liberty, after proving such death to the satisfaction of the bank, to inspect or remove the contents of such Locker and in the an in the event of the death of sole Hirer or that of the last survivor or joint



Hirers, the Bank may at its option (and on production of evidence which it may deem necessary to call, for permit any person or persons claiming to be the legal representatives of the deceased to inspect the contents of the Locker and on the registration of probate or letters of Administration, Trustees, Executors of Administrations named therein shall have power to deal with the contents of the Locker and be deemed to be Hirers of such Locker in place of original Hirers. The Bank may, appropriate cases and on such conditions as it may think fit, dispense with such probate or Letters of administration."

6. A reading of the above clause makes it abundantly clear that though an account is opened jointly by several persons, if a letter is given by one of the account holders instructing the bank not to let the other joint holders to operate the said account, the same is binding on the bank. The said letter of instructions has to necessarily be recalled only at the instance of all the account holders. In this particular case as seen from the record, the mother of the petitioner has given a letter dated 29.07.2021 to the bank instructing them not to allow the petitioner to operate the locker. Thereafter, the mother of the petitioner died on 20.03.2023. Admittedly, the petitioner during the lifetime of his mother has not raised any



objection for issuance of the said letter dated 29.07.2021 nor he has operated the locker at any point during the lifetime of his mother.

7. Even though the learned counsel for the petitioner has stated that the petitioner was not aware of the issuance of the said letter by his mother and only after her death, when he approached the bank for operating the locker, he was made aware about the instructions given by his mother. The above contention cannot be believed as the petitioner was residing under the very same roof as that of his parents. Moreover, the other legal heirs of late Shiv Rani Singh, who are contesting, the right of the petitioner to operate the locker have also filed their objections before the bank. The petitioner is aware of the said fact, however, for the reasons best known to the petitioner, the petitioner has not bothered to implead them as party respondents in the present writ petition. Once a dispute is raised with regard to the sole entitlement of the petitioner for the operating of the locker by the other legal heirs of Late Shiv Rani Singh, the petitioner has to necessarily approach a competent Civil Court and obtain a succession certificate or file a suit for declaration that he alone is entitled to the contents of the locker. The bank cannot be faulted for not allowing the



petitioner to operate the locker as they are only acting on the instructions given by the mother of the petitioner. This Court sitting under Article 226 of the Constitution of India cannot adjudicate the dispute between the various legal heirs and it is only the Civil Courts which have the jurisdiction to decide the issue.

8. Having regard to the above facts and circumstances, this court does not find any merit in the present writ petition which warrants any interference and the writ petition is accordingly dismissed. However, granting liberty to the petitioner to approach a competent Civil Court for obtaining succession certificate in his favor and then approaching the Bank for operating the locker.

9. With the above directions, the present writ petition stand dismissed.

(A. Abhishek Reddy , J)

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