

28.6.2023

ct. 236

sk,sl. 7.

C.O. 1291 of 2014

CAN 3/2017(Old CAN/11002/2017),CAN/4/2023

Dipak Day

-vs-

LIC of India

Mr. Sannidhya Dutta

...for petitioner.

Ms. Tanushree Dasgupta

....for the LIC.

Heard Mr. Sannidhya Dutta, learned counsel for the petitioner and Ms. Tanushree Dasgupta, learned counsel representing the opposite party, LIC.

It is submitted by Mr. Dutta that Dipak Day since deceased filed this application under Article 227 of the Constitution of India challenging the judgment passed by the learned Judge, 6th Bench, City Civil Court, Calcutta in Misc. Appeal No. 54 of 2009, affirming the order of eviction passed by Estate Officer, L.I.C.I. on 18.11.2009.

On 4th May, 2021 Dipak Day died and after his death, the widow moved to an alternative accommodation and parted with possession of the property in suit in favour of LIC. Admittedly, the possession of the property is now with LIC.

It is further contended that as a condition for having an order of stay, the petitioner, Dipak Day had to deposit a sum of Rs. 1,40,520/-.

My attention is drawn to the order dated 14th November, 2014 wherein direction was given upon the petitioner to deposit a sum of Rs. 1,40,520/- with the Registrar General of the High Court, Calcutta and the learned Registrar General, High Court, Calcutta was directed to invest the said amount in short term fixed deposit in any Nationalized Bank with option to renew the same from time to time. Though, the revisional application has become bereft of merit consequent upon surrendering of possession, yet the applicant Ms. Banani Day is required to be brought into record so that she can take back the money deposited by her husband, pursuant to the direction dated 14th November, 2014.

Considering as such, I am inclined to allow the application to substitute Smt. Banani Day as petitioner instead of and place of Dipak Day. Department is directed to amend the cause title.

Under the facts and circumstances of the case, learned Registrar General, High Court, Calcutta is directed to take necessary steps to return the money deposited pursuant to the order dated 14th November, 2014 together with accrued interest in favour of Ms. Banani Day the widow of Sri Dipak Day after being satisfied about the identity of the substituted petitioner.

Since the revisional application, as I have pointed out has become “infructuous”, the same is disposed of, however, without any cost.

(Siddhartha Roy Chowdhury, J)