

Item No.404

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

29.09.2023
Ct-24

WPA 22098 of 2023
Smt. Sipra Roy

v.

The Joint Registrar of Co-operative Societies & Ors.

Mr. S.R. Das
Mr. Kshetra Prasad Mukhopadhyay
Mr. S. Rakshit
... for the petitioner.

Mr. P.K.Roy
Mr. Ankit Sureka
Mr. Biplob Das
... for the respondent no. 1.

Mr. Pabitra Charan Bhattacharjee
... for the respondent no. 2.

The petitioner seeks repayment of the MIS certificate relying upon the succession certificate issued by the District Delegate at Durgapur in favour of the petitioner.

The MIS certificate issued by the Durgapur Steel Peoples' Co-operative Bank Limited stands in the name of Chandidas Chatterjee, Rama Chatterjee and Shanta Chakraborty. Mode of operation as mentioned in the certificate is anyone or survivor. The 1st and the 2nd holder of the certificate, Chandidas Chatterjee and Rama Chatterjee, have expired. Shanta Chakraborty, 3rd holder of the certificate is alive.

The petitioner claims to be the daughter of Chandidas and Rama. It has been submitted that as the parents of the petitioner have expired, accordingly, the

petitioner ought to get a share of the deposit which is lying with the bank.

Learned advocate representing the bank relies upon the award passed by the Arbitrator and the Joint Registrar of Co-operative Societies whereby it has been held that the 3rd holder of the certificate being alive and the mode of operation being anyone or survivor, accordingly, the money cannot be released in favour of the petitioner.

I have heard the submissions made on behalf of both the parties and I am inclined to accept the submission of the bank. As the 3rd holder of the certificate is alive, accordingly, the money cannot be released in favour of the petitioner because the mode of repayment is either or survivor. The 3rd holder of the certificate being alive, the said holder will have a rightful claim to the amount mentioned in the certificate.

The petitioner may be the heir of the first two holders of the certificate but as the parents included the name of Shanta Chakraborty in the certificate with the mode of operation being anyone or survivor, the same implies that as long as any of the certificate holders survive, the money cannot be disbursed in favour of a 3rd party. It is only after the death of Shanta Chakraborty that the legal heirs of the certificate holders can put forward their claim.

The mode of operation was settled by the certificate holders. The same cannot be changed after their death in the life time of the surviving certificate holder, without her consent.

In view of the above, the relief prayed for by the petitioner cannot be allowed.

The writ petition fails and is hereby dismissed.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)