

3rd July,
2023
(AK)
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W.P.A 27319 of 2022

Sudeshna Banerjee (Mukherjee)
Vs.
Union of India and others

Mr. Arun Naskar

...for the petitioner.

Mr. Debashis Saha

... for the SBI.

Learned counsel for the petitioner contends that the petitioner was the wife of the deceased account-holder of the respondent-Bank.

After the demise of the petitioner's husband, the respondent-Bank is withholding the amount lying in the account of the deceased-husband.

Learned counsel appearing for the respondent no.5/State Bank of India submits that the Bank has, in its affidavit-in-opposition to the present writ petition, clearly disclosed the names of the nominees of the account, to whom the requisite amounts lying in such accounts have been duly disbursed by the Bank.

Learned counsel for the petitioner submits that the amounts lying in each of the said accounts have not been duly disclosed, for which the petitioner is not able to file a regular civil suit before a competent civil court.

However, the duty of the Bank within the contemplation of a prudent person, as envisaged in the Negotiable Instruments Act, is to cater to the needs of its customer.

In the present case, since the deceased account-holder has clearly mentioned certain nominees to the account (who are the “receiving hands”), the Bank duly discharged its liabilities in disbursing the amounts to the said nominees, whose names have been amply mentioned in the affidavit-in-opposition filed in connection with the present writ petition.

Insofar as the amounts lying in the said account(s) at the relevant points of time is concerned, it is not the duty of the Bank to furnish the said quanta to the petitioner, since the petitioner was neither a nominee nor an account-holder with the Bank.

However, it is open to the petitioner to file a civil suit, on the usual presumptions of law, and to seek interrogatories and discovery in such suit, which advice need not be given by a court of law to the petitioner.

However, it cannot be denied that the appropriate relief of the petitioner lies before a competent civil court, where the petitioner has to make her claim regarding the estate of the deceased, including the monies-in-question.

Accordingly, WPA 27319 of 2022 is disposed of by granting liberty to the petitioner to approach the

competent civil court having jurisdiction for making due claims against the respondents herein as well as the nominees to the account of the deceased husband of the petitioner with the State Bank of India and other Banks, if any.

If such a suit is filed, it will be open to the civil court to decide all issues raised therein, independently and in accordance with law, without being influenced in any manner by the observations made herein.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)