

OD-15

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE

APOT/258/2023
IA NO: GA/1/2023
PRITY ROUTH
VS
PUTUL ROUTH & ORS.

BEFORE :

THE HON'BLE THE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 23rd August, 2023

Appearance :
Mr. Syed Nurul Arefin, Adv.
Mr. Rahul Singh, Adv.
Ms. Rashmi Binayak, Adv.
...for appellant

Mr. Debdutta Basu, Adv.
...for respondent no.1

Mr. Debashis Saha, Adv.
... for SBI

The Court : - This intra-Court appeal by the fourth respondent in
WPO No. 1024 of 2023 is directed against the order dated 5th July, 2023,

by which the writ petition filed by the first respondent herein was allowed and the respondent bank was directed to disburse the amount which is lying in the bank account of the first respondent's husband Late Rajen Routh as and when the first respondent approaches the respondent bank.

The appellant would contend that the appellant has been recorded as a nominee in the said bank account and therefore the respondent bank cannot release the amount lying in the account of the deceased in favour of the first respondent/writ petitioner. Under normal circumstances if we apply the law as to the rights of a nominee, it has to be held that a nominee will be entitled to receive for and on behalf of the persons who succeed to the estate of a deceased. However, in the instant case the facts are slightly different. The deceased was working in the NRS Medical College and Hospital and died on 23rd March, 2021. The writ petitioner after obtaining the death certificate dated 23rd March, 2021 had approached the Medical Superintendent of the said Hospital for the payment of the benefits which will be payable to her husband Late Rajen Routh. The said Institution directed the first respondent/writ petitioner to obtain a legal heir certificate, which was obtained by the first respondent from the Municipal authorities of Srerampore dated 24th March, 2023, which certifies that the first respondent/writ petitioner is

the sole legal heir of Late Rajen Routh. The said document along with other documents were produced and the NRS Medical College and Hospital had released the death gratuity in favour of the first respondent/writ petitioner and she has also been sanctioned family pension by the office of the Principal Accountant General, West Bengal by order dated 16th January, 2023. The first respondent approached the respondent Bank for release of the amount, which is lying in the savings bank account standing in the name of her deceased husband. This request was not accepted by the bank on the ground that the appellant/fourth respondent has been shown as a nominee in the said account. Admittedly, the appellant/fourth respondent, who is said to be a nominee in the said bank account, is not a legal heir of the deceased Rajen Routh.

Thus, even assuming that the appellant claims to be a nominee and is entitled for payment of the amount lying in the said bank account, the appellant cannot appropriate the money as it has to be disbursed to the legal heir of the deceased account holder, who is none other than the first respondent/writ petitioner.

Thus, we are of the view that the Learned Single Bench considering the peculiar facts and circumstances rightly granted the reliefs sought

for by the respondent/writ petitioner and we find no ground to interfere with the said order.

The respondent bank is directed to comply with the direction issued by the Learned Single Bench within a period of 10(ten) days from the date on which the first respondent/writ petitioner approaches the respondent bank.

Learned Advocate for the respondent bank submits that the amount will be released to the first respondent/writ petitioner by them upon complying with all formalities. Learned Advocate for the first respondent/writ petitioner would submit that the respondent bank is insisting upon a bank guarantee.

In our view, the respondent bank is not justified in insisting upon a bank guarantee but the respondent bank can insist upon execution of an indemnity bond by the first respondent/writ petitioner indemnifying the respondent bank from any claims that may be made by the appellant at a later stage. In fact, the order and direction issued by the Learned Single Bench clearly indemnifies the respondent bank from any liability. In addition thereto, we direct the first respondent/writ petitioner to execute an indemnity bond in favour of the respondent bank and upon execution and furnishing of such indemnity bond the respondent bank

shall not insist upon any other compliance for return of money in favour of the first respondent/writ petitioner together with accrued interest.

With this observation, the appeal is disposed of.

The stay application being IA No: GA/1/2023 is closed.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)