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WPO/1785/2023
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

LUTFA BEGUM
VS
STATE BANK OF INDIA HIGH COURT S.P.B. BRANCH AND ORS

BEFORE:
The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA
Date: 18th December, 2023.

Appearance:
Mr. Bhaskar Ghosh, Adv.
. . .for the petitioner.

Mr. Suman Basu, Adv.
. . .for the respondent no.3.

Md. T.M. Siddiqui, Adv.
Mr. Tanoy Chakraborty, Adv.
. . .for the State.

The Court: Despite service, none appears for the respondent bank.

The petitioner is the unfortunate widow of an employee of the State Legislative Assembly who met his demise on May 25, 2023. Thereafter, the death benefits and pension of the petitioner was being deposited in an account opened by the petitioner with the respondent no. 1 bank as per the instructions of her deceased husband's employer.

However, subsequently, the said account was frozen by the bank.

Upon enquiry, the petitioner learnt that the said freezing was done on the allegation that the deceased husband of the petitioner had taken a personal loan but had failed to repay the same. Learned counsel for the petitioner contends that even in execution of a decree as contemplated under Section 60 of the Code of Civil Procedure, gratuity and like benefits cannot be attached. Hence, the action of the bank is challenged before this Court.

Learned counsel for the petitioner is absolutely justified in arguing that even the higher action of execution of a decree passed by a competent Civil Court cannot involve the attachment of the gratuity and pension and other incomes of like nature in terms of Section 60 of the Code of Civil Procedure. That apart, in the present case, the bank does not enjoy any lien over the pension to be paid to the petitioner as widow of an ex-employee.

The bank, without initiating any appropriate proceedings for recovery of the amount or making a demand to the petitioner, adopted a high-handed mode of action in directly freezing the account of the petitioner, that too, the pension account of the petitioner, which is palpably *de hors* the law.

It has to be taken note of here that the pension payable to the petitioner and other death benefits of her husband are not property which is inherited by the petitioner as estate of her husband but an independent right of subsistence provided to the dependent heirs of a deceased employee. Thus, the right to get pension is an independent right of the petitioner, albeit in the capacity of the widow of the deceased employee, and not part of the estate of the deceased as such.

In such view of that matter, the impugned action of freezing the petitioner's pension account does not stand the scrutiny of law.

Accordingly, WPO 1785 of 2023 is allowed, thereby setting aside the impugned decision of the respondent no.1 bank to freeze the pension account of the petitioner. The respondent no.1 bank shall at the earliest, positively within 48 hours from communication of the order to the respondent no.1, acting upon the server copy of the same, de-freeze the pension account of the petitioner and ensure that the petitioner is able to operate the same freely immediately thereafter.

No order as to costs.

Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

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