

Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.713/2023

ANTHONY OLIVEIRA THR POA ... PETITIONER
ELVIS LOBO

Versus

STATE OF GOA THR CHIEF
SECRETARY AND 2 ORS. ... RESPONDENTS

Mr Sahil Sardessai, Advocate for the Petitioner.
Ms Sapna Mordekar, Additional Government Advocate for the
State.
Mr G. Rege, Advocate for Respondent No.2.
Adv. (Dr) Ms Rohini Pandit, Advocate for Respondent No.4.

**CORAM: M. S. SONAK &
 BHARAT P. DESHPANDE, JJ.**

DATED: 30th OCTOBER 2023

P.C.:

1. Heard Mr Sahil Sardessai for the petitioner, Ms Sapna Mordekar, learned Additional Government Advocate for the State, Mr G. Rege for respondent No.2 and Adv. (Dr) Ms Rohini Pandit for respondent no.4 appears through video conferencing. Ms Agnes Martires, respondent no.4 also appears along with her through video conferencing.

2. The petitioner who is presently quite indisposed and admitted at Goa Medical College has petitioned this court through his duly constituted power of attorney for the release of the amounts lying in his bank account/fixed deposits with the Canara Bank of India, Panaji Branch, Goa.

3. The record bears out that the fixed deposit receipts were in the name of the petitioner's wife Mrs Merceina Oliveira, who had nominated the fourth respondent as her nominee. Even the savings bank account is in the name of the petitioner's wife Ms Merceina Oliveira. This bank account bears number 3818904767.

4. Admittedly, the petitioner's wife Merceina has expired. The petitioner now needs the money in the said bank account. However, the bank wish to go by the nomination of the fourth respondent and was therefore reluctant to release this amount to the petitioner.

5. The fourth respondent has appeared before us and has stated that a similar issue arose with the account in the Bank of Baroda. She has stated that she gave an affidavit to the effect that she will have no objection if the amounts are released favouring the petitioner. She says that she tried to give a similar affidavit to the Central Bank of India at its Mumbai branch but the same was not accepted.

6. Dr Pandit and the fourth respondent now say that they have no objection whatsoever if the amounts in the bank accounts

or the fixed deposits of Merceina Oliveira i.e. petitioner's wife are released to the petitioner. This statement is recorded. The Central Bank of India, at Panaji branch will therefore have to act based on this statement and release the amounts to the petitioner or in the bank account held by the petitioner and his power of attorney jointly in the same bank.

7. As a matter of abundant caution, the fourth respondent has agreed to file an affidavit indicating that she has no objection if the amount is transferred to the petitioner. She says that such affidavit will be filed in the next two or three days with the Canara Bank of India, Fort Branch at Mumbai. This statement is accepted.

8. Mr Rege, learned counsel for the Bank, states that the Canara Bank of India at Fort will be issued the necessary instructions to accept such affidavit.

9. Accordingly, this petition is disposed of by directing the respondent no.2-bank to pay the amounts in Ms Oliveira's bank account or fixed deposit accounts to the petitioner by transferring the same in to the petitioner's and his attorney's bank account bearing no.04820100023106.

10. Mr Rege, learned counsel for respondent no.2-bank states that this will be done within a week from today. This statement is accepted and the bank must act accordingly.

11. The petition is disposed of in the above terms. All concerned to act on an authenticated copy of this order.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.

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