



WA No.2190 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B. BALAJI

WA No.2190 of 2018

Anitha : Appellant

versus

1.Pameela Moses

2.Manoj Moses

3.State Bank of India,
rep. By its Branch Manager,
Saibaba Colony,
Coimbatore 641 011

4.S.W.Vijayakumar (deceased) : Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 29.06.2018 in WP No.19632 of 2013.

For Appellant : Mr.D.Bennington

For Respondents : Mr.W.R.Subhashini,
for the first respondent
Not ready in notice
reg. Respondents 2 and 3



WA No.2190 of 2018

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JUDGMENT

(Judgment of the Court was delivered by *D.KRISHNAKUMAR, J.*)

The intra court appeal has been preferred by the appellant challenging the order dated 29.06.2018 in W.P.No.19632 of 2013.

Brief facts of the case:

2. The first respondent/first petitioner is that she along with her aunt Sarojini Williams, was holding four accounts in the third respondent bank on "either or survivor" basis. While so, the first respondent/first petitioner's aunt passed away on 04.08.2007 leaving behind her only son, the fourth respondent/second respondent namely S.W.Viayakumar (deceased), as her legal heir. After the demise of first respondent/first petitioner's aunt, the entire amount standing to the credit of the accounts devolved upon her as survivor. But the third respondent/first respondent declined to disburse the amount to the first respondent/first petitioner, on the ground that the fourth respondent/second respondent had instituted a suit in O.S.No.336 of 2008 before the Additional District Munsif Court,



WA No.2190 of 2018

Coimbatore against the first respondent/first petitioner and the third respondent/first respondent bank and the same is pending. Aggrieved by the same, the first respondent/petitioner filed a writ petition in W.P.No.19632 of 2013, before this Court. After filing of the writ petition, the said suit was withdrawn by the fourth respondent. Pursuant to the withdrawal of the said O.S., the third respondent Bank had agreed to disburse the amount to the first respondent/petitioner as per the guidelines issued by the Reserve Bank of India, dated 23.08.2012. Subsequently, on 27.03.2014, the fourth respondent had passed away. Therefore, the Writ Court, by order dated 29.06.2018, directed the third-respondent bank to settle the amount to the first respondent/first petitioner. Challenging the said order passed by the Writ Court, the appellant/wife of the deceased fourth respondent has filed the intra court appeal.

3. According to the appellant, the said order passed by the Writ Court, is unsustainable on the ground that the fourth respondent/son of the aunt is the sole legal heir of her mother, Sarojini Williams. Therefore, he is entitled for 50 % of the disputed amount. Since appellant is the only legal heir of the fourth respondent, she is



WA No.2190 of 2018

entitled for the aforesaid amount. Even during his lifetime, the deceased Viyakumar/husband of the appellant, has withdrawn the suit. Therefore, the learned counsel for the appellant submits that impugned order passed by the writ court is liable to be set aside and writ appeal to be allowed.

4. According to the learned counsel for the first respondent, the Writ Court has considered the statement of both the first respondent as well as the respondent bank and passed orders. Therefore, there is no infirmity in the order passed by the writ court .

5. We have carefully considered the submissions made on behalf of the appellant, as well as the first respondent and perused the order passed by the Writ Court. Though the appellant is the legal heir of deceased S.W.VijayaKumar (fourth respondent), the said Viyakumar during his lifetime has filed O.S.No.336 of 2008 on the file of Additional District Munsif Court, Coimbatore and the same was withdrawn by himself during his life time and accordingly the said suit was dismissed as withdrawn.



WA No.2190 of 2018

WEB COPY

6. Further, it is found that the first respondent herein and her aunt Sarojini Williams were holding the bank accounts on 'either or survivor' basis. Subsequently, the said Sarojini Williams passed away on 04.08.2007. In such circumstances, as per the Guidelines issued by the Reserve Bank of India, which specifically states that "if the operating instruction is 'either or survivor', and one of the depositors expires before the maturity, no pre-payment of the Fixed/Term Deposit may be allowed without the concurrence of the legal heirs of the deceased joint account-holder. This, however would not stand in the way of making payment to the survivor or maturity."

7. Considering the fact that suit O.S.No.336/2008 filed by Late S.W.Vijayakumar has been withdrawn by himself during his life-time and the guidelines issued by the Reserve Bank of India in the case of accounts operated on 'either or survivor' basis, the impugned order passed by the Writ Court does not warrant interference.

8. It is always open to the appellant to seek her remedy before the appropriate forum, if it is permissible under law.



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WA No.2190 of 2018

D.KRISHNAKUMAR, J.
and
P.B. BALAJI, J.

(mrn)

9. With the above liberty, the writ appeal stands dismissed.

There will be no order as to costs. Consequently, connected
C.M.P.No.16997 of 2018, is closed.

[D.K.K., J.] [P.B.B., J.]
11.07.2023

Index : Yes/No
Neutral Citation : Yes/No
mrn

To
The Branch Manager,
State Bank of India,
Saibaba Colony,
Coimbatore 641 011

WA No.2190 of 2018