IN THE PUNJAB AND HARYANA HIGH COURT AT CHANDIGARH

266 **CWP-1573-2023**
Date of Decision: 01.03.2023

HARPAL KAUR @ RANI NIJJAR
... Petitioner
VERSUS
PUNJAB NATIONAL BANK
... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ
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Present: Mr. Anand Chiibber, Sr. Advocate and
Mr. Cheetan Mittal, Sr. Advocate with
Mr. Viraj Gandhi, Advocate for the petitioner.

Mr. Gaurav Goel, Advocate
for the respondent-PNB.
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VINOD S. BHARDWAJ, J. (ORAL)

By way of filing the present petition, the petitioner seeks issuance of direction to the respondent-Bank to allow the petitioner to operate and control her late husband's bank account bearing No.0092000101781573 situated in Khan Market Branch at New Delhi.

The grievance espoused by the petitioner in the present petition is that she is Class-I legal heir of her late husband Mr. Justice Surender Singh Nijjar, who held the bank account bearing No.0092000101781573 with the Khan Market branch of the respondent-Bank. The petitioner had been nominated by her late husband with the respondent-Bank against the following account numbers:

> *"a)* ***Pension Account being Account Number: 01490000304272017*** *which was with Khan Market Branch, New Delhi and now shifted to Mani Majra, Chandigarh. The nominee name with this account is that*

of Harpal Kaur and is thus as of today being operated and controlled by the Petitioner. It is necessary to submit herein, that in this said account, the signature of the Petitioner is under the alias name Rani.

b) ***Account Number: 4425000100098326*** *was opened and operational with the Sector 8, DAV Senior Secondary School Branch at Chandigarh. The Petitioner was the joint account holder and thus this account is also operated and controlled by her as of today.*

c) ***The Fixed Deposit under the Multi Benefit Deposit Scheme being Account Number: 014900PR00021203*** *with the Khan Market Branch wherein the Petitioner has been nominated under the name Harpal Kaur.*

d) ***Account Number: 0092000101781573*** *of Khan Market Branch, New Delhi wherein the nominee name was registered under the Petitioner's alias name "Rani Nijjar". The Petitioner has not been allowed to operate or control this Account by the Respondent Bank on the erroneous ground that the Petitioner has not been able to prove that Harpal Kaur @ Rani Nijjar are one and the same person being the wife and Class I Legal Heir of her deceased Husband."*

It is averred that marriage of petitioner had been solemnized with late Mr. Justice Surender Singh Nijjar on 31.03.1971. Unfortunately, he passed away on 26.03.2021. The petitioner thereafter communicated with the respondent-Bank as to allow her to operate the bank accounts where she was nominated by her deceased husband. While the petitioner was allowed to operate the three accounts with the aforesaid bank, the account mentioned at Sr.No.(d) in the details submitted above was not allowed to be operated on the premise that the name of nominee in the earlier two accounts has been mentioned as Harpal Kaur, whereas against the instant account, the name of nominee regisered is "Rani Nijjar". It was communicated that the description of the name of the nominee was at variance and that a valid document in support of a declaration that "Rani Nijjar" and "Harpal Kaur" are one and the same person be furnished to the Authorities concerned.

Learned counsel for the petitioner contends that upon receipt of the aforesaid communication, the petitioner submitted the documents in terms of the requirements as prescribed under the Banking Regulations Act, 1949 and the Regulations issued by the Reserve Bank of India prescribing the definition of Officially Valid Document (OVD) for the change in name. The relevant statutory provision and the extract of the Circular dated 29.10.2015 and the Master Circular dated 01.07.2021 are extracted as under:

> ***"Banking Regulation Act, 1949***
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> ***Section 45ZA-Nomination for payment of depositors' money***
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> *(1) Where a deposit is held by a banking company to the credit of one or more persons, the depositor or, as the case may be, all the depositors together, may nominate, in the prescribed manner, one person to whom in the event of the death of the sole depositor or the death of all the depositors, the amount of deposit may be returned by the banking company."*

That as per Circular bearing No. RBI/2015-16/213 DBR. AML.BC. No. 46/14.01.001/2015-16 dated 29.10.2015, the RBI prescribed the definition of Officially Valid Documents (OVD) for the purpose of change in name.

> ***The Relevant portion of the Circular reads as under:***
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> > *"2. Reserve Bank has been receiving references/representations from banks and individuals regarding the problems faced by persons who change their name due to marriage or otherwise, in submitting an 'Officially Valid Document' (OVD) while opening a new bank account or during periodic updation exercise or incorporating the name change in the existing accounts.*

The OVD issued in the original name, which is not updated due to various reasons, still show the maiden/ previous name of such persons."

The definition of Officially Valid Documents (OVD) is provided under Master Circular being RB1/2015-16/42, DBR AML BC No.15 / 14.01.001/2015-16 dated 01.07.2015 as under:

2.3 "Officially valid document" (OVD)

OVD means the passport, the driving licence, the Permanent Account Number (PAN) Card, the Voter's Identity Card issued by the Election Commission of India, job card issued by NREGA duly signed by an officer of the State Government, letter issued by the Unique Identification Authority of India containing details of name, address and Aadhaar number, or any other document as notified by the Central Government in consultation with the Regulator.

(1) Provided that where 'simplified measures' are applied for verifying the identity of the clients the following documents shall be deemed to be OVD:

a. identity card with applicant's Photograph issued by Central/ State Government Departments, Statutory/ Regulatory Authorities, Public Sector Undertakings, Scheduled Commercial Banks, and Public Financial Institutions;

b. Letter issued by a gazetted officer, with a duly attested photograph of the person.

XXX XXX XXX

3.2.2. 1. Customer Due Diligence requirements (CDD) while opening accounts.

A. Accounts of individuals:

XXX XXX XXX

(iv) Simplified Measures for Proof of Identity:

If an individual customer does not have any of the OVDs (as mentioned at paragraph 2.3 (i) above) as proof of identity, then banks/FIs are allowed to adopt 'Simplified Measures' in respect of 'Low risk' customers, taking into consideration the type of customer, business relationship, nature and value of transactions based on the overall money laundering and terrorist financing risks involved. Accordingly, in respect of low risk category customers, where simplified measures are applied, it would be sufficient to obtain a certified copy of any one of the documents referred to at proviso to paragraph 2.3 (i) above., which shall be deemed as an OVD for the purpose of proof of identity."

Learned counsel for the petitioner contends that that aforesaid Master Circular provides that simplified measures can be adopted/applied by the Bank(s) for verifying the identity of the clients and to be treated as Officially Valid Document (OVD) and the same includes a letter that has been issued by a Gazetted Officer with duly attested photograph of the person alongwith his/her Identity Card of the person issued by any Central/State Government Department/Statutory/ Regulatory Authorities/Public Sector Undertakings. He submits that the petitioner had duly submitted an affidavit with the respondent-Bank wherein the name of "Harpal Kaur" as well as the alias of "Rani Nijjar" has been duly mentioned and the photograph attested by the Executive Magistrate, Chandigarh on 12.12.2022 was also provided. It was specifically averred in the aforesaid affidavit that Harpal Kaur and Rani Niijar are one and same person being the wife of late Justice Surender Singh Nijjar. He further submits that the Identity Card issued by the Central government Health Scheme specifically mentions the name of the petitioner as "Rani Nijjar" and further, the Aadhar Card mentions the name of the petitioner as "Harpal Kaur" and the address specifically states that she was the wife of (now widow) late Justice Surender Singh Nijjar. He also refers to the documents including the account opening form with the HDFC bank wherein the name "Rani Nijjar @ Harpal Kaur" has been mentioned against account No.50100058940812 bearing Customer ID 30359432 and contends that the simplified measures notified in the Master Circular also accept any such Identity Card/proof issued by the Public Financial Institutions. He submits that the opening of the aforesaid account in the name of "Rani Nijjar" alongwith the alias of "Harpal Kaur" was undertaken after due KYC requirements as prescribed by the Reserve Bank of India. He also makes a reference to the affidavit sworn by the four daughters and son i.e. other Class-I heirs of late Justice Surender Singh Nijjar, wherein they have specifically stated that "Harpal Kaur" and "Rani Nijjar" happen to be the one and same person. He thus contends that there is no dispute with regard to the identity of the petitioner being widow of late Justice Surender Singh Nijjar. He further refers that even as per the response filed by the respondent-Bank, they do not dispute the identity of the petitioner and only submit that the document in the name of Rani Nijjar is not available and that in the event of any such documentation being submitted, they have no objection to allow the petitioner to operate the abovesaid account.

The counsel for the respondent Bank submits that the account could not be permitted to be operated despite nomination due to discrepancies in the documentation resulting in disputed identification. The requirements as per RBI Circulars and their applicability are, however, not disputed.

I have heard the learned counsel for the respective parties and have gone through the documents and record available on case file with their able assistance.

The dispute in the present case revolves around the issue as to whether an officially valid document with regard to the identity of Rani Nijjar @ Harpal Kaur being one and the same person has been furnished with the Bank or not. Rest of the averments/submissions noticed above i.e. in relations to the documents appended alongwith the present petition as well as the fact that the petitioner is operating the other accounts situated within the same bank itself is not a subject matter of dispute. The extract of the Banking Regulations as also the circulars issued by the Reserve Bank of India including the Master Circular are not in question.

It is evident from a perusal of the aforesaid Master Circular and the extract noticed above that as a simplified measure, the identity card issued/verified by a Public Financial Institution and also attestation by a Gazetted Officer with regard to the abovesaid alias with attested photograph are admissible documents for allowing a person to operate the account. The present case also shows that the petitioner has submitted an affidavit duly attested by Executive Magistrate to the respondent-Bank officials alongwith affidavits of the remaining LRs reiterating the fact that "Harpal Kaur" and "Rani Nijjar" are one and same person and that there is no other claimant qua the account. The Identity Card issued by the Central Government Health Scheme and also the Aadhar Card affirm the identity of "Harpal Kaur" as "Rani Nijjar" herself. Additionally, the Public Financial Institution has also opened the account of the petitioner as "Harpal Kaur" @ "Rani Nijjar".

Resultantly, the requirement as prescribed in the Master Circular of the Reserve Bank of India towards officially valid documents stands fulfilled.

The action of the respondent-Bank in not allowing the petitioner to operate the abovesaid account despite absence of any challenge by any other legal heir/claimant(s) or any person disputing the identity of the petitioner would be uncalled for. She has further undertaken to furnish her affidavit with attested photograph from a gazetted officer and an indemnity bond to hold the bank harmless in the event of any counter claim.

Accordingly, the respondent-Bank is directed to allow the petitioner to operate and control her late husband's bank account bearing No.0092000101781573 situated in Khan Market Branch at New Delhi, where she is the sole nominee, subject to her furnishing the documents afresh with an indemnity bond reiterating to the effect that in the event of any other legal heir(s)/person(s) lodging a claim qua the amount/transactions that may take place in the aforesaid account, the petitioner shall undertake to indemnify the Bank qua the same.

The petition stands allowed accordingly.

All other misc. application(s), if any, also stand(s) disposed of accordingly.

(VINOD S. BHARDWAJ)
JUDGE

01.03.2023.
rajender

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No