AD-13
Ct No.09
14.03.2024
TN

WPA No. 2221 of 2024

Sila Majumdar and another
Vs.
Bank of India and others

Mr. Probal Kr. Mukherjee, Ld. Sr. Adv.,
Ms. Shebatee Datta
.... for the petitioners

Mr. Sourojit Dasgupta,
Ms. Niharika Singh,
Ms. Rupal Singh,
Mr. Ashok Kr. Singh
.... for the respondent nos. 1, 2 & 3

Mr. K.J. Yusuf,
Ms. Rupsha Chakraborty
.... for the State

Mr. J. Nandi
.... for the private respondent

1. Learned senior counsel for the petitioners contends that the petitioners are respectively the widow and one of the daughters of a deceased person who had certain assets in a Bank including a fixed deposit.

2. The private respondent is the other daughter of the said deceased. The petitioners obtained succession certificate with regard to the fixed deposit which was quantified by the said court while granting the succession certificate at Rs. 1,28,29,703/-, along with interest, if any.

3. Learned senior counsel submits that the fixed deposit was initially lying with the Bank of Maharashtra but was subsequently withdrawn and deposited with the Bank of India.

4. It is contended that at least with regard to the quantified amount in respect of the fixed deposit, the petitioners are entitled to 2/3rd of the said amount. The maximum claim of the private respondent can be to the tune of 1/3rd. in view of the succession certificate and in accordance with the law of succession. As such, the petitioners have challenged the impugned action of the Bank in freezing the account, apparently on the instructions of the Police authorities.

5. Learned counsel appearing for the Bank cites the intimation by the Police authorities for the freezing of the account.

6. Learned counsel appearing for the State points out that there was an investigation on the basis of a complaint lodged by the private respondent regarding the assets lying in the said Bank. The same culminated in a charge-sheet being filed against the petitioners. Criminal proceedings have commenced on the basis of such charge-sheet.

7. It is further pointed out by learned counsel for the private respondent that the petitioners had approached the criminal court with an application for de-freezing the account which was turned down by the criminal court.

8. Accordingly, it is submitted that in the teeth of the said order, which is binding on the petitioners, unless the said order is challenged and set aside, no direction can be passed for de-freezing of the account.

9. Certain components of the challenge are required to be looked into.

10. First, in view of the grant of succession certificate by a competent court of District Delegate, the same holds binding with regard to the private respondent as well as the petitioners, if not against the whole world.

11. The District Delegate, South 24 Parganas, while granting the succession certificate, had quantified the exact amount with regard to the fixed deposit concerned. Thus, the private respondent no. 8 can at best stake a claim to $1/3^{rd}$ of the said amount and not more.

12. Insofar as the freezing of the account is concerned, the same was on the basis of a knee-jerk reaction of the Police authorities, without there being any specific order preceding the action of the Bank to freeze the account. Thus, the action of the Bank in freezing the account is not sanctioned by any order of any competent court.

13. The criminal court's order which is relied upon by the private respondent and also annexed to the writ petition was on the prayer of the petitioners for de-freezing the account.

14. First, it is doubtful as to whether the criminal court is competent and/or has jurisdiction to direct either de-freezing or freezing of an account.

15. Moreover, the ground given by the criminal court was not on merits of the matter but primarily placing reliance on the objection of the Investigating Officer.

16. Learned senior counsel for the petitioners has rightly contended that after the investigation is over and charge-sheet is filed and a criminal trial is about to commence, the Investigating Officer has little or no right to have any say on the matter. Thus, the refusal of the Magistrate was on a flimsy ground. In any event, the Magistrate does not have jurisdiction to decide on the rights of the parties to deal with the property-in-question.

17. In view of the above considerations, the petitioners have a right to $2/3^{rd}$ of the claim with regard to the fixed deposit.

18. Accordingly, WPA No. 2221 of 2024 is disposed of by directing the respondent no.1-Bank to disburse an amount to the tune of $2/3^{rd}$ of Rs. 1,28,29,703/- along with any interest which might have accrued on the said account, taking the entire corpus to be a composite amount for calculation of the said $2/3^{rd}$. Such $2/3^{rd}$ amount will be disbursed in favour of the petitioners positively within three weeks from date.

19. It is made clear that with regard to other 1/3rd of the said corpus, it will be open to the Bank either to disburse the same in favour of the private respondent if the private respondent so chooses or to retain the same in the account for being operated by the private respondent.

20. It is, however, made clear that none of the other moveables of the deceased predecessor of the petitioners and private respondent, lying in the said Bank or pertaining to the investigation which led to the charge-sheet being filed, will be affected by any observations made in this order and the same shall be subject to the orders passed in the criminal proceedings and/or any civil proceedings, if taken out between the private parties.

21. There will be no order as to costs.

22. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)