

D/L.43.
May 15, 2024.
MNS.

WPA No. 12975 of 2024

Gita Sarkar
Vs.
Reserve Bank of India and others

Mr. Tapan Coomaar Dey,
Mr. Subrata Bhattacharjee,
Ms. Shreya chatterjee

... for the petitioner.

1. Despite service, none appears for the respondents. Affidavit-of-service filed in Court today be kept on record.
2. The petitioner alleges that the petitioner, a retired railway employee, had a joint account with her mother, who was also a retired government servant.
3. Subsequently, the mother of the petitioner suffered from Dementia. Since the mother of the petitioner was living with and under the control of the respondent nos. 6 and 7, who are siblings of the petitioner, the petitioner did not have access to her mother, for which a writ petition was moved and a direction was passed affording visitation right to the petitioner in respect of her mother. The

mother of the petitioner has subsequently met her demise.

4. It is alleged by the petitioner that taking advantage of the condition of the petitioner's mother, who was not in a position to give an informed consent due to her physical ailment, the private respondent nos. 6 and 7 siphoned off money from the joint Savings Bank Account of the petitioner and her mother and have opened a new account, apparently by producing a manufactured and fraudulent fit certificate of the mother. When the petitioner complained to the bank repeatedly, it is alleged that no action was taken by the respondent no. 3-bank.
5. Subsequently, the petitioner approached the Banking Ombudsman. However, the Ombudsman, by a cryptic order, merely recorded that the complaint was rejected under Clause 16(2)(a) of the Reserve Bank - Integrated Ombudsman Scheme, 2021 since in the opinion of the Ombudsman there was no deficiency in service.
6. Learned counsel for the petitioner argues that the Ombudsman did not undertake any enquiry whatsoever to look into the matter and

the impugned refusal annexed at page 116 of the writ petition is unreasoned.

7. Since the respondents choose not to appear despite service, the version of the respondents is not available to the court.
8. However, certain relevant issues have been raised by the petitioner.
9. The Ombudsman, by the impugned refusal, which was as cryptic as possible, observed that there was no deficiency in service of the concerned bank. However, “deficiency of service” is a wide term and has to take within its fold all sorts of services provided by the bank.
10. In the present case, since the petitioner was a joint account holder of the respondent no. 3-bank, the allegations made directly pertain to the services which are offered or refused to be offered to the petitioner by the respondent no. 3-bank.
11. In such scenario, the Ombudsman ought to have made an enquiry into the matter whether there was actually any deficiency of service on the part of the bank and/or a complicity between the officials of the bank and the

private respondent nos. 6 and 7 before coming to a reasoned conclusion on the issue.

12. Accordingly, WPA No. 12975 of 2024 is allowed, thereby setting aside the impugned refusal of the Ombudsman to entertain the complaint of the petitioner.

13. Upon being communicated of the gist of this order and/or the server copy of this order, the respondent no. 2, that is, the Banking Ombudsman under the Reserve Bank of India shall reopen the complaint of the petitioner and shall give an opportunity of hearing to the respondent no. 3 and its officials as well as the petitioner and undertake a due enquiry into the complaint. Thereafter, the Ombudsman shall come to a reasoned decision on the complaint.

14. The said exercise, it is expected, shall be concluded within two months from the communication of this order to the respondent no. 2.

15. It is made clear that the merits of the matter have not been gone into by this Court and it will be open to the Ombudsman to consider all the issues involved in accordance with law independent of any observation made herein.

16. Immediately upon conclusion of such enquiry and such adjudication, the Ombudsman shall communicate in writing the reasoned decision taken by the Ombudsman on the complaint of the petitioner to the petitioner.

17. Nothing in this order shall prejudice the pendency of the criminal cases initiated by the petitioner with regard to the above complaint.

18. There will be no order as to costs.

19. 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.)