

26.11.2024
Item No.15
gd/ssd

WPA/16092/2023
RUPEN KUMAR DILIP SHETHIA
VS
HDFC BANK LIMITED AND ANR.
IA NO: CAN/1/2024

Mr. Joydeep Kar, Sr. Adv.
Mr. Sourav Kumar Mukherjee,
Ms. Anjana Banerjee,
Ms. Sahana Pal
..for the Petitioner.

Mr. Soumya Majumdar,
Mr. Amitava Mitra,
Ms. Sonia Nandy
..for the Bank.

Affidavit-in-opposition filed by the respondent
nos.1 and 2 is taken on record.

The petitioner, who is the executor of the last
Will and Testament dated April 6, 2010 executed by
Ansuya Mangal Sicka, since deceased, has filed this
writ petition praying for a direction upon the HDFC
Bank Limited, more particularly upon the Branch
Manager of HDFC Bank Limited, New Alipore Branch
to act in terms of the probate of the said Will.

It is not in dispute that the probate to the said
last Will and Testament of the said deceased was
granted on 20th September, 2021 by the learned
Additional District Judge, 1st Court, Alipore, 24-
Parganas (South) in OS Case No.80 of 2015.

Mr. Kar, learned Senior Counsel representing the petitioner submits that though the authorities of the bank were approached by a representation through the learned Advocate of the petitioner to take necessary steps in terms of the probate granted by the Probate Court, no steps have been taken by the authorities of the HDFC Bank Limited till date.

Mr. Majumdar, learned Advocate representing the respondent/bank submits, upon instructions, that if the petitioner complies with the requirements as indicated in sub-paragraphs (a) to (f) of paragraph 5 of the affidavit-in-opposition the bank is ready and willing to release the funds in favour of the writ petitioner who is the executor of the last Will and Testament.

Mr. Kar, learned Senior Counsel submits that the Bank be directed not to insist for submission of original probate and the death certificate of the testatrix as indicated under sub-paragraph (a) of paragraph 5 of the affidavit-in-opposition and the petitioner shall submit the photocopy of the said documents and shall also produce the original before the concerned officer of the bank for verification and attestation.

Mr. Kar further submits that personal presence of the two witnesses at the Branch as indicated under sub-paragraph (f) of paragraph 5

may not be insisted upon as the witnesses may not be agreeable to spare their time for such purpose.

Mr. Majumdar, learned counsel, upon instructions, submits that in the event the claimant signs all forms and documents duly attested by the two witnesses and the said forms and documents complete in all respect are submitted before the bank, the bank shall take steps accordingly and shall not insist upon physical presence of the witnesses.

Mr. Majumdar further submits that in case the original probate and the death certificate are produced for verification by the authorities and a photocopy of the said documents are duly attested, requirement of submission of original probate and the death certificate as stated in sub-paragraph (a) of paragraph 5 will not be insisted by the bank authorities.

In course of hearing Mr. Majumdar, learned Advocate places a bunch of documents under a covering letter dated November 20, 2024, a copy of which has already been supplied to the learned Advocate-on-Record of the petitioner.

By drawing the attention of the court to the tabular chart which is indicated in the second page of the said bunch of documents Mr. Kar submits that the balance standing to the credit of the Savings Account No.401000026287 was treated to be an

unclaimed account and the entire funds has been transferred to the RBI Deaf Account.

Mr. Kar prays that a direction be passed upon the bank to furnish the particulars of such transfer of funds to the RBI.

Mr. Majumdar prays for a week's time to supply all required particulars with regard to the transfer of the amounts lying in the credit of the said savings bank account as well as the total amount transferred to such account.

The petitioner is directed to comply with the requisite formalities as mentioned in sub-paragraphs (b) to (e) of paragraph 5 of the affidavit-in-opposition of the Bank. The petitioner shall submit the photocopy of the Probate and the Death Certificate of the testatrix and shall also produce the originals for the purpose of verification by the Bank officials. The petitioner shall also submit all forms and documents duly signed by the claimant and attested by two witnesses.

In view of the submissions of the learned senior counsel of the respective parties, the Branch Manager of HDFC Bank Limited, New Alipore Branch, being the 2nd respondent or the person in-Charge is directed to release the amounts in so far as the amounts standing to the credit of the other accounts except the Savings Account

No.401000026287, to the petitioner subject to compliance of the formalities as indicated hereinbefore within a period of fortnight from the compliance of all formalities as indicated hereinbefore. The 2nd respondent or the person in-Charge is further directed to furnish the particulars of transfer of the funds in respect of Savings Account No.401000026287 to the RBI Deaf Account within a period of seven days from the date of this order.

In view of the submissions of the learned Advocates for the parties, the point of maintainability raised by the respondent/bank in its affidavit-in-opposition is left open.

With the above observations and directions this writ petition stands disposed of.

There will be no order as to costs.

Urgent certified copy of this order, if applied for, be given to the learned advocates for the parties on usual formalities.

(HIRANMAY BHATTACHARYYA, J.)