

Kavita S. J.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 3348 OF 2024
IN
MISCELLANEOUS PETITION NO.11 OF 2014

1. Allen Tyrone D'mello ...Applicants
2. Alexia Jerry D'mello

In

Mr. Jerry Alex D'Mello ...Petitioner

Ms. Rachita Padwal for the Applicants.

CORAM : R.I. CHAGLA, J.

DATED : 11TH DECEMBER, 2024.

ORDER :

1. By this Interim Application, the Applicants are seeking directions to the Accounts Department of this Court to transfer FDR amount to the Applicants' Account with a liberty to withdraw the same. The Applicants have stated that they were then minor children on behalf of whom late Jerry Alex D'mello i.e. the Petitioner herein had moved Miscellaneous Petition No.11 of 2024. By Order dated 3rd July, 2015, this Court allowed the Miscellaneous Petition.

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2. The Applicants have referred to the said Order dated 3rd July, 2015 passed by this Court by which this Court had directed Genworth Life Insurance Company to deposit the entire proceeds payable in respect of the policy taken by the aunt of the minor children viz. Juliana D'mello with the Accounts Officer of this Court. The proceeds of the policy as per the Petition has to be given to the minor children. The Accounts Officer upon receipt of the proceeds in respect of the policy was to deposit the entire amount in FDR in a nationalized bank until the then minor children attain majority. The Petitioner was entitled to withdraw the interest accrued on the FDR from time to time and would be then deposited in the bank account of the minor children and utilized only for their education and maintenance.

3. The Applicants have referred to the subsequent Order dated 26th October, 2015 by which this Court had observed that the amount from Genworth Life Insurance Company, New York has been received by the Account Officer of this Court in US Dollars. That amount would be converted into Indian currency. That amount was directed to be deposited in the FDR accounts and interest was to be allowed to be withdrawn every six months.

4. The Applicants have stated that Applicant No.1 attained majority on 20th July, 2022 and Applicant No.2 attained majority on 28th October, 2023.

5. The Petitioner late Jerry Alex D'mello, uncle of Applicant No.1 and father of Applicant No.2 expired on 26th August, 2022. The copies of Petitioner's Aadhar Card and Death Certificate are annexed at Exhibit-F to the Interim Application. The Applicants further state that the Applicant No.1 came to know about the principal amount and interest and accordingly applied for the Certificate of Balance from the Accounts Office of this Court. The Certificate of Balance of Applicant Nos. 1 and 2 has been annexed at Exhibit-G and Exhibit-H to the Interim Application which show the amounts of cash balance and fixed deposit which have been deposited by the Accounts Officer.

6. The Applicants have stated that the Petitioner withdrew the interest from the FDR amount from the passing of the said order dated 26th October, 2015 till 13th July, 2022. The Applicants have not received the interest amount withdrawn by the Petitioner even though they are the rightful heir to his share. The Applicants have accordingly taken out the present application in view of attaining majority with liberty to withdraw the principal amount in the custody

of the Account Department of this Court and the interest on the same.

7. I have considered the averments in the Interim Application as well as taken note of the fact that the Applicants have now attained majority i.e. Applicant No. 1 attained majority on 20th July, 2022 and Applicant No.2 attained majority on 28th October, 2023. Further the fact that this Court by Orders dated 3rd July, 2015 and 26th October, 2015 directed the Accounts Department of this Court to deposit the proceeds of the policy of Genworth Life Insurance Company, New York, in FDR and interest was allowed to be withdrawn every six months and to be deposited in the bank account of the minor children and utilized only for their education and maintenance.

8. It is further noted that the Petitioner viz. late Jerry Alex D'mello had filed Miscellaneous Petition No.11 of 2014 as the uncle of Applicant No.1 and father of Applicant No.2, as the Applicants were minors on the date of filing.

9. The Applicants having attained majority and hence are entitled to withdraw the amounts which are currently deposited in

the FDR.

10. In view thereof, the relief sought for in the Interim Application is allowed.

11. The Accounts Department of this Court is directed to transfer the FDR amount as mentioned in the Certificate of Balance of Applicant Nos. 1 and 2 (annexed at Exhibit-G and Exhibit-H to the Interim Application) within a period of three weeks from the date of this order to the Applicants' Account and the Applicants are allowed to withdraw the same.

12. The Interim Application is accordingly disposed of.

[R.I. CHAGLA, J.]