

Kavita S.J.

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

INTERIM APPLICATION NO.3399 OF 2024
IN
SUIT NO.715 OF 1999

1. Kavita Shankar Bacche
2. Nikita Shankar Bacche

...Applicants/Plaintiffs

Versus

LIC of India & Ors.,

...Defendants

Mr. M.S. Lad for Applicants/Original Plaintiffs.

CORAM : R.I. CHAGLA, J.

DATED : 25th FEBRUARY, 2025.

ORDER :

1. This Interim Application has been taken out in the disposed of Suit. The Suit had been disposed of on ground of default vide Order dated 11th December, 2006.

2. By the Interim Order dated 12th February, 1999 passed in the Notice of Motion taken out in the above Suit, LIC being the Defendant No.1 had made a statement that they will deposit the amount due under the policy in the Suit Account. Accordingly, LIC -

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Defendant No.1 was directed to be deleted from the array of parties on the amount due under the Insurance Policy being deposited with the Prothonotary and Senior Master of this Court.

3. The Applicants state that after disposal of the Notice of Motion, the Father-in-Law Baburao Tukaram Bacche – Defendant No.2 died on 23rd August, 2008 and Mother-in-Law Nababai Baburao Bacche – Defendant No.3 died on 8th July, 2002. The Suit abated as per Order dated 17th August, 2011. The Applicants have relied upon the Death Certificates and Order dated 17th August, 2011.

4. The Applicants applied for Succession Certificate in respect of the LIC amount of deceased husband of Applicant No.1. The daughter of the Applicant No.1 i.e. Applicant/Plaintiff No.2 has given her Consent Affidavit in the Succession Certificate.

5. The Applicant No.1 has thereafter received Succession Certificate dated 11th October, 2023 which is annexed at Exhibit-B to the Interim Application. Accordingly, the Applicants have taken out present Interim Application seeking permission to withdraw the amount of Rs.3,05,375/- inclusive of interest accrued therein deposited by the LIC in this Court pursuant to the Order dated 12th

February, 1999 in Suit No.715 of 1999.

6. I have considered the averments in the Interim Application as well as noted the fact that Defendant No.1 – LIC has deposited the amount due under the LIC Policy of deceased Shankar Baburao Bacche, late husband of Applicant No.1 in the office of Prothonotary and Senior Master of this Court pursuant to the Order dated 12th February, 1999. The amount deposited has been invested in Fixed Deposit of a nationalized bank. Consent Affidavit on behalf of Plaintiff No.2 consenting to the relief sought for in the present Interim Application has been filed. Succession Certificate has also been obtained by the Applicant No.1. Accordingly, the relief sought for in the present Interim Application requires to be granted.

7. The Defendant No.1 has been deleted in compliance with the Order dated 12th February, 1999. The Defendant Nos. 2 and 3 have thereafter expired.

8. Accordingly, the Suit has been held as abated vide Order dated 17th August, 2011.

9. In view thereof, the Prothonotary and Senior Master of this Court is directed to allow the Applicant/Original Plaintiff to

withdraw the sum of Rs.3,05,375/- inclusive of interest thereof deposited by the Defendant No.1 – LIC in this Court pursuant to the Order dated 12th February, 1999 in disposed of Suit No.715 of 1999.

10. The Interim Application is accordingly disposed of. There shall be no orders as to costs.

[R.I. CHAGLA, J.]