2025:KER:31208

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE M.A.ABDUL HAKHIM

THURSDAY, THE 10TH DAY OF APRIL 2025 / 20TH CHAITHRA, 1947

RSA NO. 577 OF 2023

AGAINST THE JUDGMENT DATED 28.01.2023 IN AS NO.63 OF 2020 OF ADDITIONAL DISTRICT COURT - VIII, ERNAKULAM

ARISING OUT OF THE JUDGMENT DATED 30.11.2019 IN OS NO.285 OF 2017 OF II ADDITIONAL MUNSIFF COURT, ERNAKULAM

APPELLANT/APPELLANT/1ST DEFENDANT:

**HDFC BANK LTD
SUDHAS BUILDING, GROUND FLOOR, MADHAVA PHARMACY JUNCTION, KOCHI- - 682035 REPRESENTED BY ITS MANAGER**

**BY ADVS.
R.S.KALKURA
M.S.KALESH
HARISH GOPINATH
P.I.NAJUMAL HUSSAIN**

RESPONDENTS/RESPONDENTS/PLAINTIFF 1 & 2 & 2ND DEFENDANT:

1 **KAMATH JYOTSNA JAYACHANDRA
AGED 32 YEARS
D/O. RAYA KAMATH JAYACHANDRA KAMATH, RESIDING AT XL/6503, T.D. ROAD, NORTH END, KANAYANNUR TALUK, ERNAKULAM, COLLEGE P.O., COCHIN-682 035 AT PRESENT RESIDING AT 3, PAINTED GROVE CT.MISSOURI CITY, TEXAS-77459, REPRESENTED BY HER POWER OF ATTORNEY HOLDER JAYACHANDRA KAMATH, AGED 69 YEARS, S/O. RAYAKAMATH, RESIDING AT XL/6503, T.D. ROAD, NORTH END, KANAYANNUR TALUK, ERNAKULAM, COLLEGE P.O., COCHIN, PIN - 682035**

2 JAIRAM, JAYACHANDRA KAMATH
AGED 28 YEARS
S/O. RAYAKAMATH JAYACHANDRA KAMATH, RESIDING AT XL/6503, T.D. ROAD, NORTH END, KANAYANNUR TALUK, ERNAKULAM, COLLEGE P.O., COCHIN-682 035 AT PRESENT RESIDING AT 3, PAINTED GROVE CT. MISSOURI CITY, TEXAS-77459, REPRESENTED BY HER POWER OF ATTORNEY HOLDER JAYACHANDRA KAMATH, AGED 69 YEARS, S/O. RAYAKAMATH, RESIDING AT XL/6503, T.D. ROAD, NORTH END, KANAYANNUR TALUK, ERNAKULAM, COLLEGE P.O., COCHIN, PIN - 682035

3 KRITHIKA KAMATH
AGED 27 YEARS
D/O. SURESH KAMATH, FLAT NO. A1 EXPRESS TOWERS, KALOOR, KANAYANNUR TALUK, ERNAKULAM DISTRICT COCHIN, PIN - 682017

ADDL.R4 SUDHAKARA SHENOI. V
PANACHICKAL HOUSE, CMC 28, T.D. WARD, CHERTHALA, CHERTHALA NORTH, PART KALAVAMKODAM, ALAPPUZHA -688524.

(ADDITIONAL RESPONDENT NO.4 IS IMPLEADED AS PER THE ORDER DATED 19.08.2024 IN IA.NO.1/2024)

BY ADVS.
R2 - SAHASRANAMAN PB
T.S.HARIKUMAR(K/782/1989)
R3 - REJI GEORGE
ANUPAMA JOHNY(K/000498/2004)
SAISANKAR.S(K/002188/2021)
JOSEPH RAJU MATHEWS(K/002036/2024)
R4 - ASHOK SHENOY B
P.S.GIREESH(K/341/2013)
SALIH P.A.(K/422/2020)
THEJALAKSHMI R.S.(K/001390/2022)
UMASANKER U.U.(K/002793/2023)

THIS REGULAR SECOND APPEAL HAVING COME UP FOR ADMISSION ON 10.04.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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JUDGMENT

1. Appellant Bank is the 1st defendant in the suit. The respondents 1 and 2 are the plaintiffs, the respondent 3 is the 2nd defendant. Additional respondent 4 is not party to the suit. He was impleaded in this appeal for a fair disposal of the appeal.
2. One Sreedevi.S. Kamath died on 27.03.2016. She had several deposits in the appellant - Bank. She had executed Ext.A3 Will dated 31.01.2009 with respect to her properties including the deposits in the appellant-Bank. As per Ext.A3 Will, the 2/3rd of the deposits in the appellant-Bank shall go to respondents 1 & 2 and 1/3rd of the deposits shall go to the respondent 3. The respondent No.4 is the nominee in some of the deposits of Sreedevi.S. Kamath in the appellant Bank.
3. The respondents 1 and 2 filed the suit seeking mandatory injunction to the appellant bank to disburse 2/3rd of the deposit amounts to the plaintiffs.
4. The Trial Court decreed the suit in part directing the appellant Bank to disburse 2/3rd of the deposits, which are shown in the

plaint. The appellant Bank filed the Appeal before the First Appellate Court stating that two of the deposits were released even before the decree. The said Appeal was dismissed. Thereafter this Regular Second Appeal is filed.

5. Since there is quite confusion with respect to the number of deposits of Sreedevi.S.Kamath in the appellant Bank, as directed by this Court the appellant Bank filed Affidavit dated 03.02.2025 disclosing eight items of deposits. The Table containing the details of the said 8 items of deposits incorporated in the said Affidavit is extracted hereunder.

No.	Fixed Deposit/Saving Account No.	Name of Nominee	Nominee Updation Date	FD Balance in Rs	Closure date	Closure amount in Rs as per death claim register
1	15114410002776	Jairam J Kamath	14-10-2012	23,96,211.31	na	na
2	15114410002783	Nikhil Shenoy	14-10-2012	23.92.946.79	na	na
3	15114410002801	Jayachandra Kamath	14-10-2012	23,90,769.65	na	na
4	15114410002818	Nandakumar Shenoy	14-10-2012	23,89,043.63	na	na
5	50300083548740	No	NA	222,675.20	na	na

6	50300122553808	No	NA	2,16,475.20	na	na
7	15114410002766	SUDHAKARA SHENOI	14-10-2012	Closed	27-07-2016	15,46,385.21
8	15111930001880	SUDHAKARA SHENOI	14-10-2012	Closed	01-07-2016	4786412.11

6. As per the said Affidavit, Item Nos. 7 and 8 Accounts in the aforesaid Table were closed releasing the amounts to the respondent 4 who is the nominee of the said Accounts on 27.07.2016 and 01.07.2016 respectively. The remaining 6 deposits are still available with the appellant- bank.

7. During the pendency of this Appeal, the claim of respondents 1 & 2 and the respondent 3 against the respondent 4 nominee is settled with respect to item Nos.7 & 8 deposits. I.A.No.2/2025 is filed as a Compromise Petition signed by the respondents 1, 2 and 4 in this regard. I.A.No.2/2025 can not be treated as a Compromise Application as the said Application is not signed by the appellant and the respondent 3. But it is seen that respondent No.4 has paid Rs.53,00,000/- to the

respondents 1 & 2 as per two Cheques Nos.000008 and 000009 dated 26.03.2025 of the HDFC Bank Ltd, Pallippuram Branch, Cherthala for Rs.26,50,000/- each in their separate names as a settlement of the claim with respect to Item Nos.7 & 8. The respondent 3 has filed a Memo dated 09.04.2025 signed by her and her counsel stating that she has received 1/3 share of the aforesaid Item Nos.7 and 8 deposits, and she has no further claims with respect to those two deposits. The Counsel for the respondents submitted that the issue with respect to item No.7 and 8 deposits are settled among them and there would not be any claim whatsoever to the appellant Bank in respect of Item Nos 7 & 8 deposits.

8. With respect to the other six items of deposits, the said deposits are still available with the Bank. The respondents 1 & 2 and the third respondent can claim the said deposits on the strength of Ext.A3 Will. The said deposits are not the subject matter of this appeal.

9. Since the grievance of the appellant Bank in this appeal is with

respect to Item Nos.7 and 8 deposits, such grievance does not survive as the respondents have settled their dispute with respect to the amounts withdrawn by respondent 4 from the appellant Bank. No further orders are required in this Appeal. Hence, recording the settlement of the respondents and their submission that there would not be any claim whatsoever to the appellant Bank in respect of Item Nos. 7 & 8 accounts from them, this Regular Second Appeal is dismissed.

Sd/-

M.A.ABDUL HAKHIM

JUDGE

shg/xx