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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2970/2022**

RAJ KUMARI

.....Petitioner

Through: Mr. Shoeb Shakeel and Mr. Sahim Khan, Advocates.

versus

BANK OF BARODA & ORS.

.....Respondents

Through: Mr. Sandeep Jindal & Ms. Akansha Bharti, Advocates for BOB.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **23.05.2025**

1. The petitioner states that she is the wife of Late Mr. Mahavir Singh, who was an employee of the respondent – Bank of Baroda [“Bank”]. She has filed this writ petition under Article 226 of the Constitution, seeking release of family pension payable on account of service of her late husband.
2. The petitioner had earlier filed W.P.(C) 10500/2016 against the Bank, claiming retiral benefits, pursuant to the demise of her late husband. The petition was disposed of on 07.11.2016, with the following order:

*“The petitioner claims retiral benefits pursuant to the demise of Mr. Mahavir Singh an erstwhile employee of the respondent bank who passed away on 20.01.2015. She claims to be the latter’s widow. **Her representations to the respondent bank did not yield any positive result on the ground that respondent no.4 i.e. Mrs. Sarita had already been nominated by late Mr. Mahavir Singh as his legitimate***



spouse. The respondent-bank has sought an appropriate declaration from the competent court regarding the petitioner's entitlement. **The petitioner is at liberty to pursue judicial remedies for production of decree/ order or such document which would prove her claim as the legal successor of Late Mr. Mahavir Singh.**

In view of the same, the **learned counsel for the petitioner does not press the writ petition and seeks to withdraw the same with liberty to pursue his remedies as may be available in law.**

Accordingly, the writ petition is dismissed as withdrawn. Liberty as prayed for is granted."

[Emphasis supplied]

3. It is submitted by Mr. Shoeb Shakeel, learned counsel for the petitioner, that the petitioner thereafter applied to the Office of District Collector, Etah, Uttar Pradesh, for grant of a legal heir certificate, which was issued on 03.04.2021. A copy of the certificate has been placed on record. It records the name of the petitioner, her son and daughter as the only legal heirs of late Mr. Mahavir Singh. It is also stated that the certificate is valid for payment up to Rs.5,000/-.

4. The Bank has filed a reply, in which it is stated that during his lifetime, late Mr. Mahavir Singh had submitted a Family Detail Form dated 11.10.2010, in which he had mentioned the name of his spouse as Smt Sarita Singh. The name of Smt Sarita Singh was also recorded in a Pension Payment Order dated 01.02.2013, issued by the Bank at the time of his retirement. By a communication dated 01.03.2013, late Mr. Mahavir Singh had specifically placed on record that the name of the present petitioner was wrongly recorded in the Bank's record as his spouse. Further communications of Late Mr. Mahavir Singh and Smt Sarita Singh dated 19.09.2014 and 25.07.2015 have also been referred to. In the latter communication, reference was made to a litigation filed by



the present petitioner against Late Mr. Mahavir Singh in the Civil Court in Ghaziabad, Uttar Pradesh. It is contended that, by virtue of the said proceedings, the petitioner herein had also given up any entitlement to the retiral benefits and pension on account of service of late Mr. Mahavir Singh, and had expressed her no objection to those benefits being released to Smt Sarita Singh.

5. In the rejoinder filed by the petitioner, she has denied these contentions.

6. It may be noted that, unlike in the earlier writ petition, Mrs. Sarita Singh has not been impleaded as party to this writ petition.

7. I am of the view that the records clearly disclose disputed questions of facts, relating to the petitioner's entitlement to the relief sought, which cannot properly be adjudicated in writ proceedings. The writ remedy, being a discretionary one and summary in nature, the petitioner must agitate her claims by way of ordinary civil proceedings. Disputed questions of facts are not generally adjudicated in writ petitions. In the present case, I am satisfied that the Bank is not raising factual disputes unreasonably or mala fide. The relief sought by the petitioner would also potentially affect the interests of another private party [Ms. Sarita Singh], who is not even a party to this petition.

8. Mr. Shakeel draws my attention to an order of the Supreme Court in *Rampyari Bai v. Municipal Corporation and Anr.* [1987 (Supp) SCC 263], in which the question was whether the petitioner before the Supreme Court was the validly married wife of the deceased pensioner of the Municipal Corporation. It appears from the said order that the proceedings arose out of a civil suit, in which it had been found by the



first appellate Court that the validity of the plaintiff's marriage was not proved, for which reason a nomination in her favour by the deceased pensioner was inapplicable. It is clear from the perusal of the said order that civil proceedings were required to prove the validity of the marriage on evidence. In the present case also, the same procedure should be followed.

9. The writ petition is, therefore, dismissed, with liberty to the petitioner to approach the Civil Court for the same relief.

10. This Court has made no comment on the merits of the petitioner's claims.

PRATEEK JALAN, J

MAY 23, 2025
SS/AD/