12.06.2026
Sl. No.39
Ct. No.6
ss

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 459 of 2026

Utpal Kumar Ray
versus
The Ombudsman (Banking) & anr.

Mr. Utpal Kumar Ray
... Petitioner (in-person).

Mr. Abhishek Sarkar
(through virtual mode)
...for the respondent no.2.

1. By the present writ petition the petitioner seeks for setting aside of the order dated 13th February, 2026 passed by the RBI-Ombudsman, respondent no.1, in Complaint No.RBI-OS-N202526023619225.

2. The petitioner contends that he along with other nine legal heirs of Late Barmohan Ray @ Barmohan Roy filed an application being Misc. Succession Case No.06 of 2024 before the learned Civil Judge (Senior Division), Sadar, Coochbehar seeking issuance of Succession Certificate under Part X of the Indian Succession Act in the matter of estate of deceased Barmohan Ray @ Barmohan Roy in respect of debt and securities lying at State Bank of India, Khagrabari, AD Branch in savings A/C no.20035420743 and fixed deposit

being A/C no.32280229168. Upon hearing, final order was passed by the learned Civil Court in succession proceeding on 24th March, 2025 for issuance of Succession certificate in favour of nine petitioners, excepting petitioner no.4 who died during the pendency of the succession case and her name was struck out, with the further direction upon the petitioners to distribute the share amongst themselves as per their entitlement. Accordingly Succession Certificate was issued on 10th April, 2025. On receiving the Succession Certificate, respondent no.2-State Bank of India issued banker's cheque amounting to Rs.4,54,715.77p each in favour of nine legal heirs by equally distributing the total debt amount. The petitioner received the banker's cheque bearing No.061922 dated 15th September, 2025 amounting to Rs.4,54,715.77p issued to him and he deposited the same on 18th October, 2025 for credit. However, the same was not credited. On 1st November, 2025 the petitioner filed an application before respondent No.2-State Bank of India and requested for explaining the reasons of non-crediting of the said cheque. However, no response was received from the end of respondent No.2-State Bank of India. Such action amounts to gross negligence and deficiency in service at the end of respondent No.2-State Bank of India by not clearing the banker's cheque and crediting the amount in favour of the petitioner. Subsequent thereto alleging of such deficiency in service the petitioner filed a complaint dated 12th December, 2025 before the Ombudsman, Reserve Bank of India, being respondent no.1, under Clause 11(2) of the RBI-Integrated Ombudsman Scheme, 2021. By the order impugned dated 13th February, 2026 the said complaint of the petitioner was dismissed by Ombudsman-respondent no.1 as being not maintainable. Being aggrieved by and dissatisfied with the impugned order of Ombudsman-respondent no.1, the petitioner has filed the present writ petition.

3. Mr. Utpal Kumar Ray, petitioner (in-person) submits that the complaint filed by him was summarily dismissed as not maintainable by the Ombudsman-respondent no.1 without adjudicating the contention raised in the complaint. Though in terms of the order of the learned Civil Court the banker's cheque bearing No.061922 dated 15th September, 2025 amounting to Rs.4,54,715.77p was issued to him by the concerned Bank and was deposited by him on 18th October, 2025 for credit yet the

same was not credited. The aspect was brought to the notice of the respondent No.2-State bank of India but that was of no avail. Such action of the respondent–Bank amounts to gross negligence and deficiency in service. However, Ombudsman-respondent no.1 has not properly considered the contention of the petitioner in that regard. He seeks for setting aside of the impugned order passed by the Ombudsman-respondent no.1.

4. Mr. Abhishek Sarkar, learned Advocate representing respondent No.2-State Bank of India appearing through virtual mode submits the learned Civil Court in its order has issued direction upon the petitioners to distribute the share amongst themselves as per their entitlement. Initially the Bank issued cheques of equal amount in favour of each of the legal heirs on 15th September, 2025. However, one of the legal heirs namely Pratima Roy raised the issue that all the legal heirs cannot be equally entitled to the estate of the deceased. Thereafter all the legal heirs returned their respective cheques excepting the petitioner. On 21st November, 2025 the Bank received a written legal advice from its learned advocate as to how the amount is to be divided amongst the legal heirs and accordingly the Bank thereafter

prepared Banker's cheques dated 3rd December, 2025 in the name of all the legal heirs and most of the legal heirs have already encashed their share. He admits that initially out of mistake or wrong advice the distribution of the estate of the deceased was made equally but that has been corrected later on by the Bank. The petitioner by not returning the previous cheque dated 15th September, 2025 is trying to take advantage of the earlier mistake made by the Bank. There is as such no deficiency in service on the part of the Bank in not clearing the Banker's cheque of the petitioner issued earlier. As per the Hindu Succession Act all the petitioners are not equally entitled to the estate of the deceased.

5. None appears on behalf of Ombudsman-respondent no.1 despite notice.

6. Upon hearing the petitioner (in-person) and the learned advocate for respondent no.2-Bank, the only issue which is to be decided in the present proceeding is whether the impugned order dated 13th February, 2026 of the Ombudsman-respondent no.1 is sustainable or not?

7. At the outset it is found from the materials on record that the petitioner alongwith nine legal heirs of Late Barmohan Ray @ Barmohan Roy filed an application being Misc. Succession

Case No.06 of 2024 before the learned Civil Judge (Senior Division), Sadar, Coochbehar seeking issuance of Succession Certificate in respect of debt and securities lying at State Bank of India, Khagrabari, AD Branch in savings A/C no.20035420743 and fixed deposit being A/C no.32280229168 of the deceased. During pendency of the succession case, one of the legal heirs namely petitioner no.4, therein, died and her name was struck out. Upon considering the prayer of the petitioners the learned Civil Judge (Senior Division), Sadar, Cooch Behar passed the following order on 24th March, 2026 which is annexed to the affidavit in reply (Annexure A at page 7):

> *"**O R D E R E D***
>
> *that the instant Succession Case be and the same is allowed ex-parte without cost.*
> *Let a Succession Certificate be issued in the name of each of the petitioners in respect of the scheduled mentioned securities in Prescribed Form as per provision of 374/377 of the Act subject to payment of stamp papers over which the Certificate is to be written which will be assessed by the Sheristadar of the Court with the direction upon the petitioners to distribute the share amongst themselves as per their entitlement.*
> *The instant Case is thus disposed of."*

8. By the aforesaid order learned Civil Court allowed the prayer for issuance of Succession certificate and also issued direction upon the petitioners to distribute the share amongst themselves as per their entitlement.

Accordingly, Succession Certificate was issued in favour of nine surviving petitioners on 10th April, 2025.

9. The report filed by the respondent No.2-bank shows that initially the Bank issued cheques of equal amount in favour of each of the petitioners on 15th September, 2025. However, one of the legal heirs namely Pratima Roy indicated that all the legal heirs are not equally entitled to the estate of the deceased. Thereafter all the legal heirs returned their respective cheques excepting the petitioner. Subsequent thereto, on the basis of a written legal advice received from its learned advocate dated 21st November, 2025 as to how the amount lying in the name the deceased is to be divided and apportioned amongst the legal heirs, the respondent-Bank prepared Banker's cheques dated 3rd December, 2025 in the name of all the legal heirs and most of the legal heirs have already encashed their share. Learned advocate for the respondent no.2-Bank admitted during hearing that the initial apportionment made equally amongst the legal heirs was a mistake on the part of the Bank which has been duly rectified by the respondent-Bank subsequently. There cannot be any quarrel that estate of the deceased has been dealt with by the learned

Civil Court. The petitioner's grievance is that the earlier cheque issued in his favour has not been credited by the respondent-Bank. Subsequent thereto, admittedly, the petitioner has not approached the learned Civil Court for redressal of his grievance relating to his extent of share of entitlement.

10. Upon perusal of the impugned order it is seen that respondent no.1-Ombudsman has observed that since matter was already dealt with the by the learned Civil Court no intervention from the office is possible and held the complaint of the petitioner to be not maintainable as per Clause 16(1)(a)10(2)(b)(ii) of the Reserve Bank-Integrated Ombudsman Scheme (RB-IOS), 2021. In order to examine such finding it would be profitable to reproduce Clause 16(1)(a)10(2)(b)(ii) as follows:

> *"A complaint under the Scheme shall not lie unless the complaint is not in respect of the same cause of action which is already pending before any Court, Tribunal or Arbitrator or any other Forum or Authority; or, settled or dealt with on merits, by any Court, Tribunal or Arbitrator or any other Forum or Authority, whether or not received from the same complainant or along with one or more of the complainants/parties concerned"*

11. It is not in dispute that the learned Civil Court issued direction upon the petitioners to distribute the share amongst themselves as per their entitlement in respect of the securities/estate of the deceased. The

aforementioned clause clearly indicates that a complaint under the Scheme shall not lie unless the complaint is not in respect of the same cause of action which is already pending before any Court, Tribunal or Arbitrator or any other Forum or Authority; or, settled or dealt with on merits, by any Court, Tribunal or Arbitrator or any other Forum or Authority, whether or not received from the same complainant or along with one or more of the complainants/parties concerned. Needless to mention that the estate/securities of the deceased have been dealt with on the merit by the learned Civil Court while passing the final order in the succession proceeding. Such being the position, this Court is of the opinion that since the matter was dealt with on merits by the learned Civil Court, the Ombudsman has rightly passed the impugned order in terms of the aforementioned clause 16(1)(a)10(2)(b)(ii) and thus does not call for interference.

12. In view of the above, the writ petition being **WPA 459 of 2026** stands dismissed.

13. Interim order, if any, stands vacated.

14. All connected applications, if any, stand disposed of.

15. There shall be no order as to costs.

16. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

17. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)