

K. Gangadar Reddy and Another Vs Gooty Co-operative Town Bank Limited and Others

Court: Andhra Pradesh High Court

Date of Decision: Jan. 30, 2014

Acts Referred: Banking Regulation Act, 1949 - Section 45ZA

Citation: (2014) 2 ALT 66

Hon'ble Judges: A. Rajasheker Reddy, J

Bench: Single Bench

Advocate: K. Rathanga Pani Reddy, for the Appellant;

Judgement

@JUDGMENTTAG-ORDER

A. Rajasheker Reddy, J.

This writ petition is filed by the petitioners stating that respondents 1 and 2-Bank is registered under the

provisions of the A.P. Co-operative Societies Act, 1964 and doing banking business by obtaining necessary licence from the Reserve Bank of

India. It is stated that one late O. Anasuyamma, who was unmarried, is the elder maternal aunty to the 2nd petitioner. While she was working as a

teacher, out of her own earnings, she made several deposits in various banks and financial institutions. It is also stated that the said O.

Anasuyamma, executed a Will on 14.11.2003 bequeathing her moveable and immovable properties in favour of the 2nd petitioner herein. The said

O. Anasuyamma had also deposited amounts in respondents 1 and 2-bank as detailed hereunder:

In respect of the above deposits, the first petitioner is made as a nominee to her. It is also stated that as per Section 45ZA of the Banking

Regulation Act, 1949, the banker has to pay the amount to the nominee. When the first petitioner approached respondents 1 and 2 - Bank for the

release of the amounts, first respondent bank issued proceedings dated 14.03.2013 stating that the nominees and legal heirs of O. Anasuyamma

shall obtain succession certificate from the competent Court of law. Aggrieved by the same, the present writ petition is filed.

It is contended by the learned counsel for the petitioners that as per Section 45ZA, nomination is made in favour of the first petitioner in respect of

the deposits made with respondents 1 and 2-bank and just because some legal notice was issued, the respondents-bank cannot direct the

petitioners to obtain succession certificate from the competent Court of law. It is also contended that as per Section 45ZA, the nominee is entitled

to receive the amounts and as the first petitioner is the nominee for the deposits made by late O. Anasuyamma, he is entitled to receive the same.

He further contended that no Court is granted any injunction restraining the bank from releasing the amounts. As such, there is no locus standi to

ask the petitioners to obtain a succession certificate.

2. Though notices are served on respondents 1 and 2, none appears on their behalf.

3. Section 45ZA of the Banking Regulation Act, 1949 reads as under:

45-ZA: Nomination for payment for deposit's money:-

(1) Where a deposit is held by a banking company to the credit of one or more persons, the deposit or, as the case may be, all the deposits

together, may nominate, in the prescribed manner one person to whom in the event of the death of the sole depositor or the death of all the

depositors, the amount of deposit may be returned by the banking company.

(2) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in

respect of such deposit, where a nomination made in the prescribed manner purports to confer on any person the right to receive the amount of

deposit from the banking company, the nominee shall, on the death of the sole depositor or, as the case may be, on the death of all the depositors,

become entitled to all the rights of the sole depositor or, as the case may be, of the depositors, in relation to such deposit to the exclusion of all

other persons, unless the nomination is varied or cancelled in the prescribed manner.

(3) Where the nominee is a minor, it shall be lawful for the depositor making the nomination to appoint in the prescribed manner any person to

receive the amount of deposit in the event of his death during the minority of the nominee.

(4) Payment by a banking company in accordance with the provisions of this section shall constitute a full discharge of the banking company of its

liability in respect of the deposit:

PROVIDED THAT nothing contained in this sub-section shall effect the right claim which any person may have against the person to whom any

payment is made under this section.

4. In the present case, the first petitioner made a representation to respondents 1 and 2 on 28.01.2013 for payment of the matured deposit

amounts. The respondents-bank sent communication to the first petitioner on 14.03.2013 to obtain a succession certificate stating that they

received a legal notice issued by one Sreedhar, Advocate, not to release the amounts in favour of the petitioners. But the fact that the first

petitioner is a nominee for the deposits is not disputed. It is also stated that the first petitioner filed representation before the 2nd respondent bank

in respect of his grievance. It is stated that the first petitioner is a nominee in respect of the deposits made by late Anasuyamma and she died on

15.10.2012, which is not denied by the respondents-bank in the impugned letter dated 14.03.2013.

5. In the facts and circumstances of the case, respondents 1 and 2 are directed to release the amounts to the first petitioner, if the first petitioner is

found to be the nominee in respect of the deposits made by late Anasuyamma, who is stated to have died on 15.10.2012, if no injunction from any

Court restraining the bank from paying the same, since the nominees are entitled to receive the amounts as per Section 45ZA of the Banking

Regulation Act, 1949. With the above observation, the writ petition is disposed of. Pending miscellaneous petitions if any in this writ petition shall

stand closed.