

(2008) 08 CAL CK 0060

Calcutta High Court

Case No: Writ Petition No. 18379 (W) of 2007

Chandan Chowdhury and
Another

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision: Aug. 4, 2008

Acts Referred:

- Government Savings Banks Act, 1873 - Section 4(A)
- Government Savings Certificate Act, 1959 - Section 7(4)

Citation: AIR 2009 Cal 56 : (2008) 4 CALLT 54

Hon'ble Judges: Tapan Kumar Dutt, J

Bench: Single Bench

Advocate: B.K. Bachawat, Shaymal Chakraborty and Swarup Kr. Ghosh, for the Appellant; Chhabi Dey, for the Respondent

Judgement

Tapan Kumar Dutt, J.

One Smt. Madhabi Chowdhury, since deceased, who happened to be the sister of the petitioners and one Debu Chowdhury, since deceased, died as an unmarried woman and during her lifetime she had made certain investments with Netaji Colony Post Office and such investments are in the nature of National Savings Certificates, Kishan Vikas Patras (hereinafter referred to as the NSCs and KVPs), Time Deposit Account and Savings Bank Account. In so far as the Time Deposit Account and the Savings Bank Account are concerned there has been no dispute in between the parties since there was no nomination in such investment. But in so far as the NSCs and KVPs are concerned nominations were made by the said Madhabi Chowdhury in favour of the respondent No. 6, Smt. Sanghita Debi.

2. The petitioners' case is that the said respondent No. 6, Smt. Sanghita Debi, has since died, and the learned Advocate who was appearing on behalf of the respondent No. 6 had also appeared before this Court and submitted that the

respondent No. 6 has since died and he had further submitted that no one after the death of the respondent No. 6, came forward to contact him on behalf of the respondent No. 6. It thus appears that none has come forward claiming to be the heir and/or legal representative of the respondent No. 6 in this case as yet. The respondent authorities are also not in a position to dispute the case of the petitioners that the respondent No. 6 has since died.

3. Learned Counsel for the petitioners refers to the annexures to the supplementary affidavit in support of his submission that the respondent No. 6 died on 16.4.2008. It also appears from the office order dated 9.5.2008 issued by the Kolkata Municipal Corporation that the said respondent No. 6 died on 16.4.2008 at Gurudham, P-238, C.I.T. Road, Kakurgachi, Kolkata.

4. Having heard the learned Advocates for the respective parties, it appears to this Court that the dispute between the parties is with regard to the release of the payment of maturity amounts of the NSCs and KVPs. It appears from the submissions made by the learned Advocates and also from the materials on record that after the death of Madhabi Chowdhury, succession certificate was obtained by the petitioners and the said Debu Chowdhury, since deceased, and an application was made before the postal authorities by the said persons, i.e. the petitioners and the said Debu Chowdhury, for release of the payments of the maturity amounts in respect of the NSCs and KVPs which were the investments of the said Madhabi Chowdhury. Problem arose, according to the learned Advocates appearing for the respective parties, in view of the fact that the name of the respondent No. 6 appeared as nominee in the NSCs and KVPs.

5. Learned Advocate for the respondent authorities submitted that after the death of the respondent No. 6, no one has come forward to claim as a nominee in respect of any of the NSCs and KVPs. According to the said learned Advocate, it will also appear from the records that the said Madhabi Chowdhury never made any changes in the name of the nominee and the said respondent No. 6's name still stands as a nominee in the NSCs and KVPs concerned even though the respondent No. 6 has died sometime back, as aforesaid.

6. In such circumstances, there can be no difficulty in coming to the finding that there is no existence of any valid nomination at present.

7. Learned Advocate for the petitioners refers to Section 4(A) of the Government Savings Banks Act, 1873 and submits that the postal authorities should now proceed on the basis that there is no nomination in force at present. Learned Counsel also referred to Section 7(4) of the Government Savings Certificates Act, 1959.

8. He further submits that in the present case the petitioners and the said Debu Chowdhury, since deceased, had already produced the succession certificate after the death of Madhabi Chowdhury in respect of the estate of late Madhabi Chowdhury.

9. According to the said learned Advocate, the petitioners and the heirs of "the said Debu Chowdhury, since deceased, who have been impleaded as respondent No. 7,8 and 9 in the present writ petition are entitled to get the maturity amounts in respect of the said NSCs and KVPs of Madhabi Chowdhury, since deceased.

10. Having heard the learned Advocates for the respective parties and having considered the materials on record, the writ petition is disposed of by directing the postal authorities to now proceed on the basis that there is no valid nomination in force at present.

11. In so far as the NSCs and KVPs of the said Madhabi Chowdhury, since deceased, are concerned in respect of which the respondent No. 6 was made nominee at one point of time), in view of the fact that the respondent No. 6 has since died and no other nominee has been brought on record in place and stead of the respondent No. 6 and also in view of the fact that no one has approached the postal authorities as an heir and/or legal representative of the deceased nominee the postal authorities will have to treat the aforesaid investments of Madhabi Chowdhury, since deceased, in the form of NSCs and KVPs as being without any valid nomination at present.

12. The existence of the name of the respondent No. 6 in any of the NSCs and KVPs of the said Madhabi Chowdhury, since deceased, shall not prevent the postal authorities concerned from making payment of the maturity amounts of the said NSCs and KVPs of the said Madhabi Chowdhury, since deceased, to the persons entitled to receive the same in accordance with law and/or relevant rules relating to such payments on proper identification of the persons who claim to be entitled to the aforesaid amounts.

13. Urgent Xerox certified copy of this order, if applied for, be given to the parties on compliance of usual formalities.