

SUPREME COURT OF INDIA

Shipra Sengupta

Vs.

Mridul Sengupta

C.A.No.809 of 2002

(Dalveer Bhandari and Dr. Mukundakam Sharma JJ.)

20.08.2009

JUDGMENT

Dalveer Bhandari, J.

1. This appeal is directed against the judgment dated 12.9.2000 passed by the High Court of Madhya Pradesh at Jabalpur in Miscellaneous Civil Case No. 1209 of 1998.

2. The appellant is the wife of Late Shri Shyamal Sengupta who was a Head Clerk in the State Bank of India, Bhopal, Madhya Pradesh. He was initially an employee of the Imperial Bank of India and after constitution of the State Bank of India under the State Bank of India Act, 1955, the business of the Imperial Bank of India was taken over by the State Bank of India as per the provisions of the *State Bank of India Act, 1955*. Shyamal Sengupta died issueless on 8.11.1990 at Bhopal. He left behind him his widow Smt. Shipra Sengupta, his mother Niharbala Sengupta, his brothers Pushpal Sengupta and Mirdul Sengupta.

3. It may be pertinent to mention that Shyamal Sengupta was unmarried at the time when he joined the service of the bank and he nominated his mother as his nominee.

4. The appellant herein Smt. Shipra Sengupta filed an application under section 372 of the Indian Succession Act, 1956, in which she claimed that she was entitled to her share of insurance, gratuity, public provident fund etc. etc. According to the appellant, her claim was based on the principle that any nomination made by Shyamal Sengupta prior to his marriage would automatically stand cancelled after his marriage.

5. The appellant submitted that after the death of her husband both, she and mother of the deceased Niharbala Sengupta, were Class-I heirs under the schedule of the Hindu Succession Act, 1956 and consequently she was, therefore, equally entitled to succeed to the property along with her mother-in-law Niharbala Sengupta.

6. The Trial Court granted succession certificate to the appellant and the mother of the deceased in respect of total amount of life insurance, gratuity, public provident fund and

general provident fund due to Shyamal Sengupta. The Trial Court held that both of them shall be entitled to half share in the aforesaid amounts due to Shyamal Sengupta from different heads. As to rest of the items mentioned in paragraph 6 of the application, the Trial Court held that the appellant alone was entitled to a succession certificate.

7. In an appeal jointly filed by the mother of the deceased Niharbala Sengupta and brother of the deceased Pushpal Sengupta, the Appellate Court rejected the contention of the applicants that on account of nomination made in favour of Niharbala Sengupta, in respect of the aforesaid items, the appellant Smt. Shipra Sengupta would not get any share in the amount credited or payable to Shyamal Sengupta. The learned District Judge held that the nomination did not confer any beneficial interest in the amount due towards life insurance, gratuity, public provident fund and general provident fund.

8. The learned District Judge relied on the decision of this Court in *Smt. Sarbati Devi Another v. Smt. Usha Devi*¹ and on *Om Wati v. Delhi Transport Corporation, New Delhi Others*² and modified the order of the Civil Judge in respect of other items holding that the mother of the deceased Niharbala Sengupta being the Class-I heir under the Hindu Succession Act, 1956 was equally entitled to the half share along with the appellant Smt. Shipra Sengupta. Accordingly, the learned District Judge modified the order passed by the Civil Judge and directed him to issue succession certificate in accordance with the modifications made by him in the order of the Civil Judge.

9. Niharbala Sengupta and Pushpal Sengupta, aggrieved by the order of the District Judge, filed a Civil Revision before the High Court. During the pendency of the said civil revision, Niharbala Sengupta died and her other son Mirdul Sengupta was substituted in her place on the basis of an alleged Will executed by her prior to her death in favour of Mirdul Sengupta. The Will expressly dealt with the amount to which she was entitled to receive as a consequence of grant of a succession certificate.

10. Pushpal Sengupta did not challenge the Will by which he was affected. Therefore, the position that emerged was that the court must presume for the purpose of this revision that the Will is validly executed in favour of Mirdul Sengupta.

11. In the impugned judgment, the High Court relied on the judgment of Sarbati Devi (supra) and observed that the nomination did not confer any beneficial interest on the nominee. The High Court passed the following order: (i) The amount of General Provident Fund deposited in the name of Shyamal Sengupta declaring that Mirdul Sengupta shall be entitled to entire sum due to Shyamal Sengupta together with interest to which he is entitled as per rules of deposit by the Bank till he is paid in full. (ii) So far as rest of the items mentioned in paragraph 6(a) of the application under section 372 are concerned it is declared that after the death of Niharbala Sengupta, Mirdul Sengupta is entitled to succession certificate along with Shipra Sengupta. Both of them shall be entitled to 1/2 share each as directed by the District Judge. (iii) The Civil Judge shall also direct non-applicant No. 2 or any other authority to pay the interest on the amount mentioned in paragraph 2 till that is paid to them at the usual rate

of 9% from the date of death of Shyamal Sengupta or the usual rate available to the depositor/subscriber whichever is less.

12. The appellant, aggrieved by the impugned judgment of the High Court, preferred this appeal. The following questions have been raised by the appellant in this appeal:

I. Whether nomination of mother by a member of a Provident fund governed by the Imperial Bank of India Employees' Provident Fund Rules before his marriage confers ownership on the nominee and destroys right of succession of the widow under Succession Act?

II. Whether nomination only indicates the hand which is authorized to receive the amount on the payment of which trustees of the provident fund get a valid discharge?

III. Whether the provident fund can be claimed by the heirs of the member of the provident fund in accordance with the law of succession governing them?

IV. Whether it was proper for the High Court to rely upon a forged and fabricated Will which was not even signed by Niharbala?

V. Whether it was proper for the High Court to accept the alleged Will on record in its revisional Jurisdiction, in absence of any application to that effect?

VI. Whether the High Court was entitled to take Will on record without giving fresh opportunity to lead evidence on it?

VII. Whether the High Court was right in interpreting and relying upon section 3(2) of *Provident Fund Act, 1925*?"

13. The appellant submitted that according to the settled legal position crystallized by the judgment of Sarbati Devi (supra), the principle of law is that the nomination is only the hand which accepts the amount and a nomination does not confer any beneficial interest in the nominee.

14. In Sarbati Devi (supra), this Court has laid down that a mere nomination does not have the effect of conferring to the nominee any beneficial interest in the amount payable under the life insurance policy, on death of the insurer. The nomination only indicates the hand which is authorized to receive the amount on payment of which the insurer gets a valid discharge of its liability under the policy. The amount, however, can be claimed by the heirs of the assured in accordance with the law of succession.

15. The appellant also placed reliance on the judgment of this Court in *Vishin N. Khanchandani Another v. Vidya Lachmandas Khanchandani Another*³, wherein this Court held that the law laid down in Sarbati Devi (supra) holds the field and is equally applicable to the nominee becoming entitled to the payment of the amount on account of National Savings

Certificates received by him under Section 6 read with Section 7 of the Act who in turn is liable to return the amount to those in whose favour the law creates a beneficial interest, subject to the provisions of sub- section (2) of Section 8 of the Act.

16. Learned counsel for the appellant also placed reliance on a Division Bench judgment of the *Delhi High Court in Others*⁴. This case related to the Delhi Co- operative Societies Act. The High Court while following Sarbati Devi case (supra) held that it is well settled that mere nomination made in favour of a particular person does not have the effect of conferring on the nominee any beneficial interest in property after the death of the person concerned. The nomination indicates the hand which is authorized to receive the amount or manage the property. The property or the amount, as the case may be, can be claimed by the heirs of the deceased, in accordance with the law of succession, governing them.

17. The controversy involved in the instant case is no longer res integra. The nominee is entitled to receive the same, but the amount so received is to be distributed according to the law of succession.

18. In terms of the factual foundation laid in this case, the deceased died on 8.11.1990 leaving behind his mother and widow as his only heirs and legal representatives entitled to succeed. Therefore, on the day when the right of succession opened, the appellant, his widow became entitled to one half of the amount of the general provident fund, the other half going to the mother and on her death, the other surviving son getting the same.

19. In view of the clear legal position, it is made abundantly clear that the amount in any head can be received by the nominee, but the amount can be claimed by the heirs of the deceased in accordance with law of succession governing them. In other words, nomination does not confer any beneficial interest on the nominee. In the instant case amounts so received are to be distributed according to the Hindu Succession Act, 1956. The State Bank of India is directed to release half of the amount of general provident fund to the appellant now within two months from today along with interest.

20. The appeal filed by the appellant is accordingly allowed and disposed of, leaving the parties to bear their own costs.

¹(1984) 1 SCC 424

²1988 Lab. I.C. 500

³(2000) 6 SCC 724

⁴(1998) VII AD (Delhi) 639