

SUPREME COURT OF INDIA

Ram Chander Talwar

Vs.

Devender Kumar Talwar

C.A.No.1684 of 2004

(Aftab Alam and R. M. Lodha JJ.)

06.10.2010

ORDER

1. Hard counsel appearing for the appellants.

2. Appellant No. 1, who was the nominee in the bank account held by his deceased mother claims full rights over the money lying in the account, to the exclusion of the respondent who is none else than his full brother. The claim is based on Section 45ZA of the Banking Regulation Act, which according to him, makes the nominee of the depositor the sole beneficiary vested with all the rights of sole depositor.

3. Mr. Swetank Shantanu, counsel appearing for the appellants, strenuously argued that by virtue of Sub-section 2 of Section 45ZA, the nominee of the depositor, after the death of the depositor acquires all his/her rights to the express exclusion of all other persons and, therefore, the respondent can not lay any claim to the money in the account or in regard to the articles that might be lying in the bank locker held by their deceased mother.

4. The submission is quite fallacious and is based on a complete misconception of the provision of the Act. Sub-section 2 of the 45ZA, reads as follows:

“45ZA xxx xxx xxx xxx

(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 to 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.

xxx xxx xxx xxx

(emphasis added)

5. Section 45ZA(2) merely puts the nominee in the shoes of the depositor after his death and clothes him with the exclusive right to receive the money lying in the account. It gives him all the rights of the depositor so far as the depositor's account is concerned. But it by no stretch of imagination makes the nominee the owner of the money lying in the account. It needs to be remembered that the Banking Regulation Act is enacted to consolidate and amend the law relating to banking. It is in no way concerned with the question of succession. All the monies receivable by the nominee by virtue of Section 45ZA(2) would, therefore, form part of the estate of the deceased depositor and devolve according to the rule of succession to which the depositor may be governed.

6. We find that the High Court has rightly rejected the appellant's claim relying upon the decision of this Court in *V.N. Khanchandani and Anr. v. V.L. Khanchandani and Anr.*¹. The provision under Section 6(1) of the Government Saving Certificate Act, 1959 is materially and substantially the same as the provision of Section 45ZA(2) of the Banking Regulation Act, 1949, and the decision in *V.N. Khanchandani* applies with full force to the facts of this case.

7. We find no merit in this appeal. It is, accordingly, dismissed.

¹(2000) 6 SCC 724