

(2017) 04 BOM CK 0257
In the Bombay High Court
Case No : 12350 of 2015

Amol Rajgonda Patil

APPELLANT

Vs

The Manager, Canara Bank & Anr

RESPONDENT

Date of Decision : 20-04-2017

Acts Referred:

Constitution of India, Article 226 -
Power of High Courts to Issue certain writs
Succession Act, 1925, Section 57, Section 370 - Application of cert

Citation : (2017) 04 BOM CK 0257

Hon'ble Judges : A.S.Oka, A. K. Menon

Bench : DIVISON BENCH

Advocate : Vishwanath B. Rajure, Vaishali Bhilare

Judgement

1. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent no.2. In this petition under Article 226 of the Constitution of India, we are concerned with the bank accounts held by one Smt. Shevantibai Bhimgonda Patil. The details of the bank accounts have been mentioned in the prayer clause (b).

2. The petitioner is the grandson of the said Shevantibai. The said Shevantibai made a Registered Will dated 12th December, 2007 by which a specific bequest is purportedly made in favour of the petitioner in respect of the amount standing to her credit in her bank account in Ratnakar Bank Limited. Another bequest is purportedly made in favour of the petitioner in respect of the movable and immovable assets which are not specifically mentioned in the Will.

3. The said Shevantibai died on 7th February, 2014. The petitioner on the basis of the Will applied to Canara Bank as well as Ratnakar Bank seeking withdrawal of the amounts lying to the credit of the accounts held by his deceased grandmother. Canara Bank by its letter dated 1st July, 2014 called upon the petitioner to produce a Succession Certificate.

4. The prayer in this petition under Article 226 is for issuing a writ of mandamus to both the banks directing them to pay the amounts standing to the credit of the deceased to the petitioner without insisting upon production of a Succession Certificate or Probate.

5. The submission of the learned counsel appearing for the petitioner is that in view of the express provisions of the Indian Succession Act, 1925 (for short "the Succession Act") and the law laid down by this Court, it is not mandatory for the petitioner to obtain Letters of Administration or Probate on the basis of the Will as the deceased was not a resident of Mumbai and the Will does not affect any property in Mumbai. The learned counsel appearing for the petitioner placed reliance on the decisions of this Court which hold that in such cases, Probate or Letters of Administration is not mandatory in view of the express provisions of Section 57 of the Succession Act. He would, therefore, submit that the Banks cannot insist on production of a Succession Certificate as the petitioner is making a claim on the basis of the Registered Will of the account holder. The learned counsel appearing for the respondent no.1 supported the stand taken in the letter dated 1st July, 2014.

6. We have perused a copy of the alleged Will of deceased Shevantibai. The Will itself discloses that though her husband predeceased her, she was survived by her son and six married daughters.

7. Under Section 370 of the Succession Act, on production of a Succession Certificate, the Banks will get a valid discharge. In the present case, admittedly, the petitioner is not a nominee appointed by the deceased account holder. The petitioner is not a natural legal heir who is entitled to succeed to the assets of the deceased as per the provisions of the Hindu Succession Act, 1956.

8. Therefore, the respondent no.1 called upon the petitioner to produce a Succession Certificate to facilitate the speedy disposal of his claim. We find no error in the approach adopted by the bank when it insisted on the petitioner producing a Succession Certificate. This will enable the Banks to obtain a valid discharge. We may, however, hold that on production of a Succession Certificate under Section 370 of the Succession Act issued by the Competent Court to the petitioner, the respondents Banks will have to release to the petitioner the amounts standing to the credit of the accounts held by deceased Shevantibai without insisting upon complying with other formalities such as production of an indemnity bond, consent of the natural heirs etc. The reason is that if the Banks pay the amounts to the petitioner on production of the Succession Certificate issued by the Competent Court, the Banks will get a valid discharge.

9. Subject to what is observed above, the petition is rejected.