
(2009) 04 P&H CK 0355
In the Punjab And Haryana At Chandigarh

Jai Bhagwan

APPELLANT

Vs

Smt. Babli and Others

RESPONDENT

Date of Decision : 02-04-2009

Acts Referred:

Citation : (2009) 04 P&H CK 0355

Hon'ble Judges : Vinod K.Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Vinod K. Sharma, J.—This regular second appeal is directed against the judgment and decree dated 14.3.2009 passed by the learned Courts below vide which suit filed by the plaintiff/appellant for declaration and permanent injunction to challenge the appointment of defendant No. 1 as nominee by Sh. Krishnanandji, has been dismissed.

2. The dispute is that earlier Sh. Krishnanandji had appointed plaintiff/appellant as nominee, however, subsequently the nomination was changed, and Smt. Babli w/o Sh. Susheel Kumar was made as nominee by making a request application in the Post Office.

3. Though objection was raised by the Sub Post Master Kosli with regard to the nomination, however the Head office found the nomination to be in order in view of specific instructions in this regard, that the nomination can be entered even after the death if the nomination is valid.

4. The learned Courts below on appreciation of evidence have recorded a concurrent finding of fact that the nomination of defendant No. 1 was in order.

5. The learned Counsel for the appellant contends that this appeal raises the following substantial question of law for consideration by this Court:

Whether nominee can be changed after the death of a person?

6. In support of the substantial question of law the learned Counsel for the appellant contends that once it is proved on record that Sh. Krishnanandji had died, it was not open to defendants No. 2 to 7 to change the nomination earlier made by Sh. Krishnanandji.

7. However, this contention of the learned Counsel for the appellant cannot be accepted as the learned Courts below by taking note of clarification of the department which reads as under:

Clarification

Subject : Date of effect of nomination

Doubts were raised by a number of Circle whether the clarifications issued vide items No. (1) and (b) of the letter No. 61-4/83-SB (copy enclosed) dated 2.9.1983, in respect of SB deposits, would be applicable to saving certificate also.

The matter has been examined in consultation with the Ministry of Finance/ Ministry of Law and it has been decided that in these two cases if the nomination in respect of saving certificates is otherwise in order, the concerned Post Office can register it even after the death of the depositor and it will be valid.

(DG Poster letter No. 61-4/84-SB dated 17.12.1986)

Copy of DGP & T Letter No. 61-4/83-SB dated 2.9.1983

The Ministry of Law as clarified the two points raised as follows:

(a) Whether nomination registered in due course even after death of the depositor is valid :

(b) Whether nomination which was not registered in the usual course due to omission on the part of the Head Office, can be registered at a later date even after the death of the depositor:

In these two cases, if the nomination is otherwise in order, the Head Post Office can register it even after the death of the depositor and it will be valid.

held that there was nothing wrong in change of nomination by defendants No. 2 to 7. The findings recorded by the learned Courts below is in consonance with the instructions of the department qua the nomination.

8. The substantial question of law is answered against the appellant.

9. Finding no merit, the appeal is dismissed in limine.