

(2020) 11 KL CK 0152

In the High Court Of Kerala

Case No : Writ Petition (Civil) No. 6667 Of 2020 (G)

Mercy George

APPELLANT

Vs

Indian Overseas Bank And Ors

RESPONDENT

Date of Decision : 26-11-2020

Acts Referred:

Citation : (2020) 11 KL CK 0152

Hon'ble Judges : P.V. Asha, J

Bench : Single Bench

Advocate : Liji. J. Vadakedom, Remy Elizabeth Thomas, Rajeev Jyothish George, Tom E. Jacob, Sunil Shanker

Final Decision : Disposed Of

Judgement

1. The petitioner is one of the legal heirs of late Thressiamma Dominic. As per the legal heirship certificate Ext.P2, the only legal heirs of late Thressiamma Dominic are the 3rd respondent, who is the father of the petitioner herein and the petitioner i.e., the husband and daughter of the deceased.

2. It is stated that late Thressiamma had availed a loan from the 1st respondent Bank by pledging 53.300 sovereigns of gold ornaments from

07.03.2018. Petitioner's mother died on 12.11.2018. The due date for releasing the gold ornaments was 06.03.2019 as per the Jewel Loan Card

No.646/18. The petitioner approached the Bank requesting for release of gold ornaments in order to see that the same is not auctioned after the

prescribed period. But the Bank did not permit the release of gold ornaments to the petitioner on the ground that the 3rd respondent has not given

consent. It is stated that the petitioner had been staying with her mother and

her mother and father had been having strained relationship and were living separately.

3. The learned counsel for the petitioner pointed out that petitioner is not in a position to submit a joint application due to non co- operation of the 3rd respondent father.

4. The learned Standing Counsel for the Bank submitted that unless the 3rd respondent, who is also a co-owner agrees and give written consent, the ornaments pledged cannot be released to the petitioner. It is also stated that the Bank has to be indemnified, if at all the ornaments has to be released.

5. The learned counsel for the petitioner points out that in view of the judgment in Muttillath Valappil Vellachi (died) and Others v. Madhavi (died) and Others [2019 KHC 100], the possession of the property by the petitioner would be in her capacity as a co-owner.

6. Though notice was ordered to the 3rd respondent on 23.03.2020 and from the endorsements of the Registry, it is seen that the service is complete

on the 3rd respondent, he has not entered appearance. Therefore it has to be presumed that the 3rd respondent does not have any objection. Petitioner

wants to close the loan account and to get the gold ornaments released by the Bank.

In view of these circumstances, there shall be a direction to the respondents 1 and 2 to release the gold ornaments, pledged by the petitioner's mother

and covered by Ext.P1 loan account, to the petitioner, within a period of two weeks.

Accordingly, the writ petition is disposed of.