
(2022) 04 OHC CK 0018
In the Orissa High Court
Case No : Writ Petition (C) No. 5096 Of 2022

Sita Das

APPELLANT

Vs

Axis Bank Ltd., Mumbai And Others

RESPONDENT

Date of Decision : 04-04-2022

Acts Referred:

Citation : (2022) 04 OHC CK 0018

Hon'ble Judges : Arindam Sinha, J

Bench : Single Bench

Advocate : P.K.Rath, P. K. Dasmohapatra, P.C. Panda

Final Decision : Disposed Of

Judgement

Arindam Sinha, J

1. Mr. Rath, learned advocate appears on behalf of petitioner and Mr. Dasmohapatra, learned advocate, for opposite party nos.1 to 3.

2. On 29th March, 2022 following order was made.

"1. Mr. Rath, learned advocate appears on behalf of petitioner and submits, his client's husband is seriously ill. The husband had made fixed deposit account no.915040020032798 in his name. His client needs proceeds of the deposit to look after her husband. Several requests were made to the bank (opposite party no.3), which by letter dated 11th February, 2022 said, inter alia, as follows.

"We understand that customer is bed ridden for last six and half years and is not able to sign the closure request. We have subsequently received a medical certificate from your end certifying the medical condition of our customer Mr. Tanay Kumar Das. Attending Doctor has mentioned in the certificate that the patient current clinical status reveals "Luck of Comprehension". Subsequently, we had deputed an employee from the bank to meet Mr Tanay Kumar Das as his residence address mentioned above and to collect the required documents. The said employee has observed that the customer apart from being physically

incapacitated, was not able to speak or respond properly. Also, it was observed that the customer was not in the position to comprehend the nature of proposed financial transaction i.e. closure of the FD and was not in a position to take a decision regarding the proposed transaction. In view of the above mentioned facts and in order to protect our customer's interest, we decline your request for closure of the FD account number 915040020032798.

However in view of the distress faced by you and family members you may approach a competent court and obtain a suitable court order for closure of the FD account and withdrawal of the deposit amount."

2. Mr. Dasmohapatra, learned advocate appears on behalf of the bank. On query from Court he submits, instruction for closure of the fixed deposit can only be given by the customer. On further query from Court he submits, the customer is petitioner's husband and contents in letter dated 11th February, 2022 were written by his client.

3. State is added as party. Petitioner has liberty to cause the amendment in the cause title, in Court and to be counter signed by the Court Master. Petitioner will serve amended copy of the writ petition on State along with this order. State is required to issue instructions for informing Court whether there is any complaint regarding custody of petitioner's husband Tanay Kumar Das, who at present is unwell and at the address of petitioner given in the writ petition, being cared for by petitioner.

4. List on 4th April, 2022 marked under heading 'For Orders'."

3. Mr. Panda, learned advocate, Additional Government Advocate appears on behalf of added opposite party (State) and files report. Contents of the report are reproduced below.

" In inviting a reference to the subject cited above I have the honour to submit the enquiry report that on local enquiry regarding health condition of Mr. Tanaya Kumar Das of Flat no.4012, Tera Building, DN Oxy Park, Dumduma, Khandagiri, Bhubaneswar, 751019 locality it is ascertained that he is lying on the bed, unable to tell anything. During visit to the said apartment the Petitioner Sita Das wife of Mr. Tanaya Kumar Das was present and provided some medical bill cum receipts. On perusal of treatment documents, it came to light that since 2016 he was under treatment and bedridden. He is not in a condition to put his signature as he is sleeping on the bed unable to move his hand and leg.

This is for favour of kind information"

4. The bank is directed to allow petitioner to encash fixed deposit account no.915040020032798 and disburse the same to her.

5. The writ petition is disposed of.

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