(1989) 08 AHC CK 0003

In the Allahabad High Court

Case No : Civil Misc. Writ No. 9618 of 1989

Smt. Parvati APPELLANT

Vs

Central Bank of India and another RESPONDENT

Date of Decision : 08-08-1989

Acts Referred:

Banking Regulation Act, 1949 — Section 45ZA, 45ZA(2)

Citation : AIR 1990 All 103

Hon'ble Judges : S.D. Agarwala, J;R.R. Misra, J

Bench : Division Bench

Advocate : Vijay Jaiswal, for the Appellant; Standing Counsel, for the Respondent

Judgement

S.D. Agarwala, J.—Heard learned counsel for the petitioner and learned counsel for the Bank.

2. On 16th May 1989, time was granted to the Bank to file counter-affidavit. No counter-affidavit has been filed. Today learned counsel for the Bank sought for further time to file the counter-affidavit. In the interest of justice, we do not think it proper to grant any further time as the facts are not disputed.

3. The petitioner''s husband Sri Hira Lal made fixed deposits in the Central Bank of India for a sum of Rs. 80,000/- The total number of fixed deposits receipts were 25. The petitioner was shown as the nominee in all 25 fixed deposit receipts. Hira Lal died on 4th March, "88. Thereafter, the petitioner who was the widow of Hira Lal made a request to the Bank to permit her to withdraw the fixed deposit amount before the date of maturity as she was in urgent need of money because she required the money for her treatment.

4. The Bank rejected the request of the petitioner on the ground that the money can be given to the petitioner only after maturity. Section 45ZA of the Banking Regulation Act, 1949 reads as following:--

"45ZA. Nomination for payment of depositors'' money-- (1) where a deposit is held by a banking company to the credit of one or more persons, the depositor or, as the case may be, all the depositors together may nominate in the prescribed manner, one person to whom in the event of the death of the sole depositor or the death of all the depositors, the amount of deposit may be returned by the banking company.

(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 of 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.

(3)to(4)......"

Section 45ZA clearly provides that where a deposit is held by a Banking Company to the credit of the depositor, he can also make a nomination in a prescribed manner in favour of any particular person to whom the amount is to be paid in the event of his death. Sub-section (2) of the above section further pro- vides that in case of the death of the depositor all rights of the depositors in relation to the deposit shall be acquired by the nominee.

5. In the instant case, it is not disputed that the petitioner is the nominee in respect of the deposits. In case Hira Lal the original depositor was alive, he could have withdrawn the deposits made by him. The only condition would have been that he could not have been given full interest on the said deposits. The petitioner being the nominee is also entitled to withdraw the amount before maturity. The Bank of course is entitled to change the rate of interest mentioned in the fixed deposit receipts if the amount is withdrawn before maturity. The refusal by the Bank to permit withdrawal before maturity is wholly arbitrary.

6. We, consequently, allow the petition and direct the Central Bank of India, Kidwai Nagar Branch, Kanpur to refund the amount of fixed deposit receipts in the name of Hira Lal along with interest to the petitioner within a period of three weeks from the date a certified copy of this order is produced before the Manager of the Bank. A copy of this order may be given to learned counsel for the parties on payment of usual charges within a week.

7. Petition allowed.

