

**HIGH COURT OF DELHI**

**Bench: HON'BLE MR. JUSTICE DHARMESH SHARMA**

**Date of Decision: December 07, 2023**

CONT.CAS(C) 186/2020

**MAHALAKSHMI ..... Petitioner**

**VS**

**PAVANI UCO BANK & ANR ..... Respondents**

**Legislation:**

Section 2(b), 11, 12 of the Contempt of Courts Act, 1971

Section 57, 213 of the Indian Succession Act, 1925 ( )

**Subject:** Contempt petition filed against UCO Bank for the alleged deliberate violation and non-compliance of a court order regarding the release of funds from the deceased's bank accounts as per his will.

**Headnotes:**

Civil Contempt – Allegation of deliberate violation and non-compliance of a court order – Petitioner, the ex-daughter-in-law of the deceased testator, filed a contempt petition against respondent No.1/UCO Bank – Dispute regarding the release of funds from the deceased's bank accounts as per his will – Court issued directions on 01.11.2019 for the release of funds – Contempt petition filed due to non-release of funds as per court directions – Respondent No.1/UCO Bank Imposed a lien on the released funds – Allegation of wilful disobedience of court directions by bank officials – Bank officials failed to comply with the court's order, causing obstruction in the execution of the deceased's will – Show cause notice issued to concerned Chief Manager of UCO Bank for appearing in person and justifying the non-compliance – Bank directed to release or vacate the lien on the funds and allow the executor to operate the bank account – Compliance report to be filed. [Para 1-19]

**Referred Cases with Citations:**

- Clarence Pais v. Union of India (2001) 4 SCC 325
- FGP Ltd. V. Saleh Hooseini Doctor & Ors. (2009) 10 SCC 223
- Kanta Yadav v. Om Prakash Yadav & Ors. (2019 SCC OnLine SC 920)
- Harvinder Singh and Ors. V. Ranjit Kaur & Ors. (2011 SCC OnLine Del 257)

**Representing Advocates:**

**Mr. Nikhil Majithia, Adv. For the Petitioner**

**Sarfaraz Khan for R-1/UCO Bank**

**Mr. Vivek Goyal, CGSPC with Mr. Gokul Sharma, Adv. For R-2**

**Sh. Akshay Kumar, S/o Sh. Jogender Singh, Assistant General Manager at Supreme Court Branch, Supreme Court Compound, New Delhi**

**HON'BLE MR. JUSTICE DHARMESH SHARMA****J U D G M E N T**

1. The present contempt petition is filed by the petitioner under section 2(b), 11 read with section 12 of the Contempt of Courts Act, 1971 against respondent No.1/ UCO Bank for the deliberate violation and non-compliance of the order dated 01.11.2019 passed by this Court in W.P.(C) No. 11552 of 2019.

**FACTUAL BACKGROUND**

2. The Petitioner herein is the ex-daughter-in-law of Late Sh. Pavani Parameshwara Rao, who was a Senior Advocate practicing in the Supreme Court of India. She filed a writ petition claiming that her father-in-law/testator had executed a registered will on 29.06.2017 before his death and he passed away on 13.09.2017. Evidently, the Will of the deceased as expressed by him was his last & final Will, had nominated the Petitioner as the „Executor“ of his Will.

3. The details of the moveable and immoveable properties of the deceased have been clearly delineated in the Will as also its apportionment amongst the Legal Heirs of the deceased. However, the present contempt petition encapsulates the issue regarding the three bank accounts of the deceased in UCO Bank, Supreme Court Branch, Supreme Court Compound, New Delhi viz., Savings, Current and Assistants“ Current Bank Account. The claim that has to be released by the Respondent No.1/Bank is to the tune of Rs.4,96,07,344.81/-.

4. It was the case of the Petitioner in the writ that she approached respondent No.1/ Bank to release the impugned sum of money for the distribution of the same to the Legal Heirs of the deceased according to the Will. However, the Bank vide letter dated 20.10.2018 requested the Executor of the Will to submit certain documents viz., (i) fresh indemnity bond, (ii) fresh affidavit, (iii) probated copy of the Will, (iv) death certificate of Late Sh. PP Rao and his wife, (v) the survivor certificate, and (vi) if the executor is not ready to probate the Will then all the legal heirs are required to lodge separate claim.

5. As a consequence of which the petitioner wrote a letter to the respondent No.1/Bank stating that the probate of the Will is not required as per Section 57 of the India Succession Act, 1925<sup>1</sup> as none of the properties of the deceased are situated/located within the territorial jurisdiction of

Kolkata, Mumbai or Chennai. However, all other documents, were submitted by the Petitioner on 24.06.2019. In reply, the respondent No.1/UCO Bank vide letter dated 09.09.2019, raised three concerns with regards to: (i) probate of the Will, (ii) the survivor certificate of the legal heirs and (iii) the genuineness of the Will, which as per them could only be proved after grant of probate of the Will. While on the other hand, the Central Bank of India vide letter dated 19.09.2019 stipulated that the succession certificate or probate was not necessary for the release of money.

6. The petitioner in the writ/main matter assailed the decision of the letter dated 20.10.2018 of the UCO Bank canvassing the plea that the policies of both Central Bank of India and UCO Bank are regulated by the Reserve Bank of India as they both are Nationalized Banks, and therefore, there could be no two different policies for both the Banks. It was pointed out that other Banks where the Testator had accounts, namely the Central Bank of India, ICICI Bank, and Laxmi Vilas Bank, have purportedly acknowledged the copy of the Will and proceeded to disburse the funds in the absence of a requisite probate. 7. The Petitioner approached this court by filing a Writ Petition/main matter against the letter dated 09.09.2019 issued by the respondent No.1 /Bank and for the release of funds on the ground that the Central Bank of India has already released the funds lying in the account of the deceased, hence stating that two Nationalized Banks having pan India presence, cannot operate with two different policies. This Court vide order dated 01.11.2019 passed the following directions:-

“.....5. As would be evident, these objections have been raised by respondent No.1 bank vis.-a-vis. the request made by the petitioner for release of money to her which is available in the account(s) maintained by her deceased father-in-law with the respondent

<sup>1</sup> Act

No.1/ UCO Bank.

5.1 To be noted, the petitioner is said to be the executor of the Will dated 29.6.2017. This Will was executed by the deceased Senior Advocate, Mr. P.P. Rao. Concededly, even according to the counsel for respondent No.1 /UCO bank, in Delhi, a Will is not required to be probated.

6. Therefore, objection No.1 and 3, as articulated in respondent No.1 /UCO bank's letter dated 9.9.2019 will not survive.

7. The only other objection, which has been put forth by respondent No.1 /UCO bank concerns the furnishing of a Survivor Members Certificate by the petitioner.

8. Counsel for the petitioner submits that the Surviving Members Certificate will be submitted within a period of two weeks from today. At this stage, counsel for respondent No.1/UCO bank says that a 'No

Objection Certificate' (NOC) is also required to be furnished, in the form of an affidavit in favour of the petitioner from other legal heirs of the deceased.

9. Counsel for the petitioner submits that an affidavit to the effect of the legal heirs will be submitted along with the Surviving Members Certificate issued by the appropriate authority.

10. Therefore, the writ petition is disposed of with a direction that if the aforementioned documents are furnished, then, the money available in the account of the deceased Senior Advocate, Mr. P.P. Rao, maintained with the respondent No.1/UCO Bank will be released forthwith, to the executor (i.e., the petitioner)”

8. However, she received a letter dated 28.02.2020 whereby she was called upon to submit the following documents:-

“1. Surviving certificate has to be issued in favor of all three beneficiaries as mentioned in the will.

2. Affidavits submitted by the one beneficiary require proper identification of deponent.

3. A separate affidavit require from other two beneficiaries as they are major.

4. All three beneficiaries are required to submit No Objection Certificate in favor of Ms Pavani in the form of affidavits.”

9. The petitioner filed the instant contempt petition pointing out that although she has complied with the aforesaid directions in the order dated 01.11.2019 by availing legal heirs certificate/surviving members certificate dated 27.01.2020 from the office of the Tehsildar Dadri and also submitted the No Objection Certificate dated 04.11.2019 in the form of an affidavit; and called upon the UCO Bank to release the funds in terms of the aforesaid order, the same has not been done, and therefore, she has sought initiation of civil contempt proceedings against the concerned officials of the UCO Bank/respondent No. 1.

10. On the filing of the present contempt petition, this court passed the following directions vide order dated 02.03.2020:-

“During the course of hearing, Ld. Counsel appearing for the Respondent bank on his part does not dispute the fact that the only surviving son of the deceased executor of the Will has already given the NO Objection Certificate (NOC). In other words, it can be said that the genuineness of the Will is not in dispute. Ld. counsel for the Respondent bank also comes forward to submit that he has now the instructions to state that the case of the petition has been processed and sanctioned to give effect to the subject Will by the AGM and Branch Head of the UCO Bank. If that be so, it should be given effect to, latest, by tomorrow.”

11. On the following date of hearing, it was brought to the attention of the Court that the son of the testator, namely Mr. Praveen Pavani, presently residing at House. No. 143, Sector 15A, Noida, Uttar Pradesh -201301 who

had apparently given his “no objection” on an affidavit dated 04.11.2019, approached the UCO Bank disputing the above dated affidavit. Based on this challenge, a notice was been issued to Mr. Praveen Pavani, who filed a reply-affidavit dated 03.03.2020 *inter alia* to the effect that he had no knowledge of the pendency of W.P.(C)1152/2019 and his consent was not taken before filing the same; and that he never executed any NOC/affidavit dated 04.11.2019; and upon receiving a call from UCO Bank, Supreme Court Branch, on 03.03.2020 it was informed that a huge amount was being transferred from the account of his late father Sh. P.P. Rao to the account of the petitioner on the basis of the orders of this Court, and thus, he made a representation in the bank along with an affidavit dated 03.03.2020 to the fact that he had not executed any affidavit/NOC dated 04.11.2019.

12. The UCO Bank has also filed a short reply through Sh. Akshay Kumar, S/o Sh. Jogender Singh, who was then working as Assistant General Manager at Supreme Court Branch, Supreme Court Compound, New Delhi and it is stated that although the directions of the Court were complied in terms of the order dated 02.03.2020, however, Mr. Praveen Pavani visited the bank on 03.03.2020 and since he claimed that he had not executed any affidavit/NOC dated 04.11.2019, the bank wrote a letter dated 04.03.2020 to the petitioner informing her that although the amount has been released in her account, the same has been marked under „lien“.

13. Having heard learned counsels for the parties and on careful perusal of the records, besides written submissions filed on behalf of the Noticee Mr. Praveen Pavani<sup>2</sup>, needless to state that this court is primarily concerned with enforcing its directions dated 01.11.2019. It is evident from the record that the petitioner has complied with the directions of this Court and on the moving of the present contempt petition, respondent No.1/UCO bank had also complied with the directions of this Court except, that subsequently a lien has been imposed on the amount released in view of the objections raised by the Noticee Mr. Praveen Pavani.

14. First things first, as was held by this Court while passing the directions vide order dated 01.11.2019, in view of Section 57 r/w Section 213 of the Act, there is no mandate in law that the Will should be probated since admittedly the Will was executed in Delhi and the properties covered in the Will are not found in the local or the original jurisdiction of **High Court Calcutta, Bombay and Madras**. Reference can be invited to decision in **Clarence Pais v. Union of India**<sup>3</sup>, besides **FGP Ltd. v. Saleh Hooseini Doctor & Ors.**<sup>4</sup>; **Kanta**

**Yadav v. Om Prakash Yadav & Ors.<sup>5</sup>; Harvinder Singh and Ors. v. Ranjit Kaur & Ors.<sup>6</sup>.**

15. That being the case, this Court categorically directed the Bank that they shall release the amount which is in the Bank account of the deceased/testator to the bank account of the petitioner, subject to the petitioner submitting surviving members certificates of the other Legal Heirs of the deceased/testator. Once NOC dated 04.11.2019 had been submitted by the petitioner purportedly signed and attested by the Noticee Mr. Praveen Pavani (ex-husband), the concerned official Bank had no business to create any lien over the amount credited to the bank account to the petitioner without any directions from this Court. At the cost of repetition, such directions have been passed on

02.03.2020 and evidently in his anxiety, the concerned official of the

<sup>2</sup> No written submissions filed on behalf of the petitioner

<sup>3</sup> (2001) 4 SCC 325 <sup>4</sup> (2009) 10 SCC 223

<sup>5</sup> 2019 SCC OnLine SC 920

Bank attempted to over reach the directions of this Court by not only informing the Noticee Mr. Praveen Pavani about the directions of the Court but also by creating a lien over the amount so transferred. The said action on the part of the concerned official of the Bank is patently a case of civil contempt amounting to wilful and deliberate disobedience to the directions passed by this Court on 01.11.2019.

16. What is unfathomable is that the Bank official did not even consider it proper to seek any clarification from this Court despite having a battery of lawyers. The act committed by the concerned official of the Bank amounts to manifestly impeding the course of administration of justice and thereby attempting to wriggle out the directions passed by this Court. The concerned official clearly and deliberately failed to comply with the order dated 01.11.2019 in its letter and spirit in the face of the fact that there was no dispute regarding the validity of the Will executed by the deceased/testator before his death and there was a clear and unambiguous disposition of the properties by the deceased/testator, who appeared to be in a sound state of mind at the time of executing the Will.

17. It is pertinent to mention that the petitioner is the ex-daughter-in-law of the deceased/testator who was married to the Noticee Mr. Praveen Pavani and they have since got separated and yet the intention of the deceased/testator was to appoint his ex-daughter-in-law as the executor of the Will. It cannot be overlooked that the Noticee Mr. Praveen Pavani has

chosen not to file any criminal complaint or proceedings disputing the authenticity of NOCs dated 04.11.2019

<sup>6</sup> 2011 SCC OnLine Del 257

submitted to the Bank. It is but apparent that for some inexplicable reasons he has chosen to put hindrance in the execution of the Will of the testator with regard to the disposition of the properties. The two children who are the Legal Heirs and grand children of the deceased/testator and the children of the petitioner have filed a civil suit bearing No. CS(OS). 755/2020 before the Court of Civil Judge (Senior Division), Gautam Budh Nagar, Uttar Pradesh, wherein, not only the petitioner but also the Noticee Mr. Praveen Pavani have been impleaded as the defendants, and apparently the plaintiff's children are seeking perpetual injunction against the defendants restraining them from creating any hindrance in the execution of the Will dated 29.06.2017.

18. In view of the forgoing discussion, this Court *prima facie* holds that the concerned Chief Manager of UCO Bank, posted as on 02.03.2020 with the Supreme Court Branch, Supreme Court Compound, New Delhi, was guilty of committing civil contempt of the directions of this Court dated 01.11.2019. Therefore, a show cause notice be issued to him with the directions to appear in person and to give reasons/justification as to why he should not be punished for wilfully disobeying and not complying with the directions of this Court. In the meanwhile, the Bank/respondent No.1 also has to purge itself from the contempt and the Chief Manager of UCO Bank, Supreme Court Branch, Supreme Court Compound, New Delhi is directed to immediately release or vacate the lien and allow the executor i.e. the petitioner to operate the bank account as per the wishes of deceased/testator. The compliance report be filed before the next date of hearing.

19. Show cause notice in accordance with the aforesaid direction be issued to the concerned Chief Manager of UCO Bank, Supreme Court Branch, Supreme Court Compound, New Delhi for appearance on 08.01.2024.

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