

MHKO070018572024



**Order below Exh.68 in Special Civil
Suit No.65/2024.**

Pravinsinh Ishwara Mane

Vs.

Indumati Ishwara Mane and others.

Defendant No.1 has filed the present application to direct defendant No.4 (State Bank of India, Branch- Shirol) to hand over the ornaments kept in locker No.49758536773 to her, being the nominee of deceased Ishwara Babu Mane. The plaintiff has filed his say (Exh.69) and objected the application

2. Heard both sides. Perused the record. In view of the application, say and argument advanced by the parties, the following points arise for my determination and I proceed to record my findings thereon for the reasons as follows-

Sr. No.	Points for determination	Findings
1.	Whether defendant No.1 is solely entitled to get ornaments kept in the locker No.49758536773 of State Bank of India, Branch- Shirol ?	No.
2.	What Order?	As per final order..

As to Point No.1:-

3. Learned Advocate for defendant No.1 has submitted that deceased Ishwara Babu Mane was father of the plaintiff and husband of defendant No.1. He had opened a locker No.49758536773 in the State Bank of India, Branch- Shirol for

keeping her Stridhan which was in the form of ornaments. One key of the said locker is in the custody of defendant No.1. Ishwara Bapu Mane died on 16.02.2024. Therefore, defendant No.1 being the nominee of Ishwara, is entitled to get the custody of the ornaments kept in said locker. The learned advocate for defendant No.1 has further submitted that some of the ornaments kept in the said locker were gifted to her by her parents at the time of her marriage and some ornaments were purchased by her out of her separate income. Therefore, defendant No.1 is solely entitled to get the ornaments kept in the locker.

4. On the other hand, learned advocate for the plaintiff has submitted that the ornaments kept in the said locker were owned by his father. The plaintiff as well as defendant No.1 and 2 have share in the said ornaments. Therefore, in order to get their share out of the said ornaments, the plaintiff has filed the present suit. Therefore, according to the plaintiff the ornaments cannot be handed over solely to defendant No.1 before deciding the shares and rights of the plaintiff and the defendants. The learned advocate for the plaintiff has further submitted that nomination does not create any interest in the ornaments kept in the locker. Therefore, defendant No.1 is not entitled to get the ornaments kept in the locker.

5. According to defendant No.1 as per section 45ZA of the Banking Regulation Act, 1949, it is mandatory to hand over the articles kept in the locker to the nominee. The legal heirs do not have right over the same. However, on reading of section 45ZA of

the Banking Regulation Act, it appears that the said provision deals with the nomination of person to receive proceeds of a bank deposit in the event of depositors death. It allows a depositor, or all depositors in the case of joint account, to nominate a person who will receive the deposit amount if the sole depositor or all depositors die. It means that section 45ZA deals with 'deposits' kept in the bank. It does not deal with the locker and the ornaments kept in the said locker. However, section 45ZC of Banking Regulation Act deals with the locker and the articles kept in the said locker. Therefore, it is necessary to consider the section 45ZC of Banking Regulation Act.

Section 45ZC of Banking Regulation Act, reads as under :-

45ZC. Nomination for return of articles kept in safe custody with banking company.—

(1) Where any person leaves any article in safe custody with a banking company, such person may nominate, in the prescribed manner, one person to whom, in the event of the death of the person leaving the article in safe custody, such article may be returned by the banking company.

(2) Where the nominee is a minor, it shall be lawful for the person making the nomination to appoint in the prescribed manner any person to receive the article deposited in the event of his death during the minority of the nominee.

(3) The banking company shall, before returning any articles under this section to the nominee or the person appointed under Sub-section (2), prepare, in such manner as may be directed by the Reserve Bank from time to time, an inventory of the said articles which shall be signed by such nominee or person and shall

deliver a copy of the inventory so prepared to such nominee or person.

(4) 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 article, where a nomination made in the prescribed manner purports to confer on any person the right to receive the article from the banking company, the nominee shall, on the death of the person leaving the article in safe custody, become entitled to the return of the article to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner:

Provided that nothing contained in this section shall affect the right or claim which any person may have against the person to whom the article is returned in pursuance of this sub-section.

6. On plain reading of section 45ZC of Banking Regulation Act, it appears that the said provision prescribes that when a person leaves an articles in safe custody with a bank and make a valid nomination according to the prescribed procedure, the nominee is entitled to receive the articles upon the death of depositor. However, the proviso of the said section makes an important qualification. The proviso protects the rights of others (which may includes his legal heirs), clarifying that even though nominee receives the articles from the bank, any rightful claim of that another person i.e., legal heirs does not extinguish. It means that the provisions of section 45ZC empowers the nominee to receive the ornaments kept in the locker. However, it does not confer any title or interest regarding the ornaments, on the nominee. Therefore, it is clear that nominee does not become owner of the articles or ornaments kept in the locker of the bank.

Hence, in the present case the defendant No.1 does not become owner of the alleged ornaments, being nominee of Ishwara. Therefore, she is not entitled to get ornaments kept in the locker.

7. Now, it is necessary to consider the authorities cited by both the parties relating to the right of the nominees. In that regard the learned advocate for defendant No.1 has relied on **Pritam Vaman Karande Vs. Sharada Kakasaheb Karande and others, (2000)1 Mh.L.J. 632**, wherein the Hon'ble Bombay High Court held that -

7. Even otherwise, I am clearly of the opinion that in law unless there is a specific provision whereby the nominee becomes the owner or is entitled to hold the property to the exclusion of the Legal Representatives, it is the Legal Representatives who are entitled to the estate. As such the Legal Representatives will be entitled to the deposit or moneys or property lying in custody with the bank after considering provisions of section 45ZA. As pointed out the provisions like section 45ZA are provisions to enable the bank to disburse the proceeds on the death of the principal, in favour of the nominee. This is in order to avoid conflict and avoid hardship. However, section 45ZA makes it clear that this is subject to orders that may be obtained. That being the object of the section, **I am clearly of the opinion that it is the legal representatives of the deceased who would be entitled to the moneys in the account as also the proceeds of the lockers** subject to whatever requirements that are required to be complied with under the Act.

8. It means that the Hon'ble Bombay High Court in this case has specifically held that though there is nomination to the locker, the legal representatives of the deceased are entitled to get

the ornaments kept in the locker. On the other hand, the learned advocate for the plaintiff has relied on **Shakti Yezdani and anr. Vs. Jayanand Jayant Salgaonkar and others, 2024(4) SCC 642**, wherein the Hon'ble Supreme Court has held that -

26. A consistent view appears to have been taken by the courts, while interpreting the related provisions of nomination under different statutes. It is clear from the referred judgments that the nomination so made would not lead to the nominee attaining absolute title over the subject property for which such nomination was made. In other words, the usual mode of succession is not to be impacted by such nomination. **The legal heirs therefore have not been excluded by virtue of nomination.**

9. In view of the ratio laid down in the cases (cited supra) it is clear that the legal heirs have not been excluded by virtue of nomination. Therefore, it is clear that the legal heirs of the deceased is having the right over the ornaments kept by him in the locker, though he had appointed the nominee for the same. In the present case, it is not disputed by the parties that the plaintiff as well as the defendants are the legal heirs of deceased Ishwara. The plaintiff has also claimed share in the said ornaments. Therefore, it is clear that only on the basis of nomination, defendant No.1 is not entitled to get the whole ornaments kept in the locker.

10. The learned advocate for defendant No.1 has also relied on **Rama Chakravati Vs. Manager Punjab National Bank and others, (1991) AIR (Calcutta) 128**. However, the facts of the present case and that case are different. In that case the bank had

decided to deny access to the locker to the nominee unless she produces a succession certificate in support of her right. It appears that in that case the dispute was between the bank and the nominee. In the present application, there is dispute between the legal heirs of deceased Ishwara who had opened the locker. Hence, the ratio laid down in this case is not helpful to defendant No.1.

11. Defendant No.1 has claimed the ornaments on another ground that some of the ornaments were purchased by her parents at the time of her marriage. Therefore, the said ornaments are her Stridhan. Moreover, she has alleged that some of the ornament are are purchased by her out of her own income. However, defendant No.1 has not produced any evidence or document to prove that the alleged ornaments were purchased by her or her parents. Even, she has not specifically mentioned description of the ornament which were purchased by her and which ornaments were purchased by her parents. On the other hand, the plaintiff has pleaded that the alleged ornaments were purchased by his father namely Ishwara. Therefore, it appears that there is dispute about the sole ownership of defendant No.1 over the alleged ornaments. Moreover, the plaintiff in the present suit has sought the partition of the alleged ornaments. The title and ownership of the alleged ornaments will be decided during the trial. In such circumstances, at the interim stage of the suit it is not legal and proper to hand over the whole ornaments only to defendant No.1. If the alleged ornaments are directed to be handed over to defendant No.1 alone, then it will amounts to granting of final relief at the interim stage to defendant No.1 which is not permissible under the law.

12. In view of above discussion, it is clear that defendant No.1 is not entitled to get the custody of the ornaments kept in a locker of State Bank of India at this stage. Therefore, the application is liable to be rejected. On perusal of record it appears that in a say filed by State Bank of India in RCS No.107/2024, it is mentioned that the Bank has hold the amount of Rs.47,024/- for the purpose of payment of rent of the said locker. Therefore, if the alleged ornaments were kept in the locker as it is, no prejudice will be cause to anybody. Hence, it is clear that defendant No.1 is not solely entitled to get the custody of ornaments kept in the locker of State Bank of India. Hence, I answer point No.1 in the negative and in answer to Point No.2, I pass the following order-

ORDER

The application (Exh.68) is rejected.

Date- 27/06/2025

(P.A.Patil)
Jt. Civil Judge Senior Division,
Jaysinpur.