IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE
AT CHENGALPATTU

Present:**Tmt.K.Kayathri, M.A.B.L.**
Additional District Judge,
Chengalpattu.

Friday, the 6th day of December 2024
<u>I.A.No.3/2023 in O.S.No.6/2021</u>
CNR No: TNCG01-004823-2020

1. M/s. Equitas Small Finance Bank Limited,
Rep. by its General Manager,
Anna Salai, Chennai 600 002.
2. M/s. Equitas Small Finance Bank Limited,
Saligramam Branch, Chennai-93 ...Petitioners/Defendants

-Vs.-

Mr.S.Ramachandran ...Respondent/Plaintiff

This Petition coming before this court on 25.11.2024 for final hearing in the presence of M/s.A.Damodaran, S.Jayakodi Janani and others, Counsels for the Petitioners and M/s.P.Vinayagamurthy and D.Jegadeesan, Counsels for the Respondent and upon hearing the arguments of both sides and perusing the material records and having stood over for consideration till this day, this Court delivered the following:-

<u>O R D E R</u>

This petition filed under Order VII Rule 11(a) of CPC to reject the plaint in the above suit in O.S.No.6 of 2021 on the file of this court.

2. <u>The petition averments in brief is as follows:-</u>

The 1st petitioner is the 1st defendant in the suit and has filed this petition on behalf of the 2nd petitioner also. The power of

Attorney executed in favour of 1st petitioner is valid and still subsisting.

The Respondent has filed the above suit with bald and frivolous allegations with an unworkable prayer that of mandatory injunction is not maintainable either under law or on facts. As per the provision of section 39 of Specific Relief Act, a mandatory injunction can only be granted when there is necessity to prevent the breach of an obligation of erring party and the party may be compelled to perform certain acts. Further, the mandatory injunction is to be exercised in very exceptional and rare circumstances. Such injunction can be granted under the following circumstances:

a. There must be an obligation on the part of the defendant to perform certain acts the breach of which, must be alleged by the plaintiff.

b. Such relief must be enforceable by the Court.

The right of a nominee properly nominated comes into play only when the petitioner bank had refused or failed to remit the proceeds to the nominee. But in the instant case, the petitioner bank could not release the proceeds to the nominee in view of the ambiguity as stated supra. Therefore, in as much as there is no obligation or breach on the part of the petitioner bank, suit for mandatory injunction shall not lie against it.

The present suit seeking mandatory injunction is not maintainable and the Respondent shall not be entitled for mandatory injunction against the petitioner unless there is a contractual obligation between the Respondent and the petitioner.

The claim of the plaintiff was rejected due to the reason of relationship mismatch between the depositor and the nominee as mentioned in the Account Opening Form. However, the petitioner is willing to release the Deposit amount to the rightful claimant. The contractual obligation envisaged under Depositor's Account Opening Form is determinable in nature under section 14 (d) of the Specific Relief Act, which cannot be enforced under this suit and therefore the present suit shall not be enforceable against the petitioner under law and is liable to be dismissed with appropriate direction to the Respondent. The conduct of the Respondent is hit by the proviso of Section 15 (b) of the Specific Relief Act, 1963. Under these circumstances, the petitioner prays to reject the plaint in the above suit.

3.<u>Counter averments in brief :-</u>

This Respondent does not admit each and every one of the allegations and averments stated in the petition except those that are specifically admitted by him. The petition is not maintainable either in law or on facts and the same is liable to be dismissed in limine.

The respondent demanded the petitioners to release the proceeds, but wantonly and deliberately refused to release the same after relevant requirements have been completed by the Respondent. At the time of opening of the savings bank account with the 2^{nd} petitioner’s bank, Mr.Ranganathan appointed the respondent as nominee for the savings bank account No.100002140590. It is understood, the nomination form of said Ranganathan was duly filled by the Branch Manager of the 2nd respondent's bank.

Three grounds on which the defendant's bank is obliged to release the deposit amount are:

a) Under Section 45ZA of Banking Regulation Act 1949, "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."

b) Under Section 8.8.1.(a) of Banking Codes and Standards Board of India (BCSBI), "payment to the survivor(s) / nominee of the deceased depositors will be made without insisting on production of succession certificate, letter of administration or probate, etc. or obtaining any bond of indemnity or surety from the survivor(s)/nominee, irrespective of the amount standing to the credit of the deceased account holder"

c) RBI letter, RBI/2004-05/490 DBOD.No. Leg. BC.95/09.07.005/2004-05, dated 09-06-2005, in paragraph 2.2, "It may be noted that since payment made to the survivor(s) / nominee, subject to the foregoing conditions, would constitute a full discharge of the bank's liability, insistence on production of legal representation is superfluous and unwarranted and only serves to cause entirely avoidable inconvenience to the survivor(s) / nominee and would, therefore, invite serious supervisory disapproval. In such case, therefore, while making payment to the survivor(s) / nominee of the deceased depositor, the banks are advised to desist from insisting on production of succession certificate, letter of administration or probate, etc., or obtain any bond of indemnity or surety from the survivor(s)/nominee, irrespective of the amount standing to the credit of the deceased account holder." If the bank feels that is not regulated either by Banking Regulation Act-1949, or under section 8.8.1(a) of BCSBI, or even by RBI, then the respondent/plaintiff's wonder under which authority's purview is the bank regulated ? Does the bank feel that, it is above RBI regulation and all laws prevailing in Union of India ?.

The petitioner has stated that the claim of the Plaintiff was rejected due to the reason of relationship mismatch between the depositor and the nominee.

Two grounds on which the petitioners/defendants bank is denying the claim with a malafide intention are:

a) As per paragraph-3, in the order passed by the Hon'ble Madras High Court in W.P.No.8709 of 2015, "The law is quite settled that the nominee is the trustee for other legal heirs. The respondents' responsibility(the petitioners herein) would end by allowing the nominee to receive the amount after the death of the deceased.

In other words, the respondents(the petitioners herein) are duty bound to pay the amount."

b) The Hon'ble Madras High Court (Madurai Bench) in W.P.(MD) No.16236 of 2012 has passed an order stating that, "There was no legal requirement that a person nominated must be the legal heir or representative of the depositor".

In-spite of all these conspicuous judgments, acts and RBI letter the petitioner bank is refusing to settle the claim and in the e-mail reply dated: 24-03-2018, the petitioner’s bank has been insisting for a succession certificate too.

The petitioner’s bank handed over the cheque book and debit card of the deceased account holder to this respondent. This Respondent's father's younger brother (Mr.R.Ranganathan), who is the original account holder, demised on 18-09-2017 and the petitioners' bank issued the debit card on 20-09-2017. The original account holder demised well before the account was created by the petitioner’s bank.

If the petitioner’s bank is not obliged to settle the respondent's claim on the grounds of relationship mismatch, then is the same criteria not applicable before handing to the Respondent, confidential documents such as debit card and Cheque book? Based on these circumstances, it is evident that, the petitioner’s bank is in fact creating an issue, which does not arise in the first place.

This respondent/plaintiff further submit that on the above circumstances, Two questions which the Respondent would raise to the petitioner's bank is:

1) If the petitioners' bank is of the opinion that, there is a relationship mismatch between the depositor and the nominee, then why did it give to the Respondent two confidential and important documents such as Debit card and Cheque book which belongs to the deceased account holder Mr.R. Ranganathan?

2) When the Banking Regulation Act-1949, Banking Codes and Standards Board of India (BCSBI), letter of RBI dated 09-06-2005, Judgments of Hon'ble Madras High Court and Hon'ble Madras High Court (Madurai Bench) all state that, there is no legal requirement that a nominee must be a legal heir, where does the issue of relationship mismatch occur ?. The petitioners' bank has even gone to the extent of insisting on a succession certificate when it was not at all required in the first place.

At the time of Mr. R.Ranganathan's death, he was 79 years old and this respondent was about 65 years old. Mr.R.Ranganathan was a graduate in Law and Doctor in Philosophy who was aware that it is not mandatory to mention the relationship status of the nominee in account opening form and there is possibility of him, requesting Shanmugasundaram, the 2nd petitioner Branch manager at Saligramam, who was known to him to fill up the pertained column of the form.

This Respondent is 71 years old pensioner and has been claiming rightfully and the petitioner’s bank simply denies it with illegal reasons, and denies the claim for the past 6 years. Mr.R.Ranganathan was residing in a rented house at Abdul Azeez street, T. Nagar when he transferred the amount from City Union Bank to petitioner’s Bank and filled up the account opening form on 16.10.2017 and he came to the respondent's residence at Chromepet to stay with him on 17.10.2017, the next day he died. The Respondent properly complied with all necessary documents and proof at the time of opening account either by the respondent or deceased Ranganathan as per instructions given by the petitioner’s bank but thereafter they refused to pay the proceeds to this respondent wantonly and deliberately and also defraud the amount of the deceased Ranganathan. In such circumstances, the petition is liable to be dismissed.

4. <u>The points for consideration:-</u>

1. Whether the petition is to be allowed or not?

Both sides did not adduce either oral or documentary evidences.

<u>5. POINTS:-</u>

This application has been filed to reject the plaint filed by the respondent/plaintiff. This court perused entire case records. The petitioners contended that the Respondent has filed the above suit with bald and frivolous allegations with an unworkable prayer that of mandatory injunction is not maintainable either under law or on facts. As per provision of section 39 of Specific Relief

Act, a mandatory injunction can only be granted when there is necessity to prevent the breach of an obligation of erring party and the party may be compelled to perform certain acts. Further, the mandatory injunction is to be exercised in very exceptional and rare circumstances.

The petitioners further contended that the right of a nominee properly nominated comes into play only when the petitioner bank had refused or failed to remit the proceeds to the nominee. But in the instant case, the petitioner bank could not release the proceeds to the nominee in view of the ambiguity and therefore, in as much as there is no obligation or breach on the part of the petitioner bank, suit for mandatory injunction shall not lie against it.

It is the further contention of the petitioners that the claim of the plaintiff was rejected due to the reason of relationship mismatch between the depositor and the nominee as mentioned in the Account Opening Form. However, the petitioner is willing to release the Deposit amount to the rightful claimant. The contractual obligation envisaged under Depositor's Account Opening Form is determinable in nature under section 14 (d) of the Specific Relief Act, which cannot be enforced under this suit and therefore the present suit shall not be enforceable against the petitioner under law and is liable to be dismissed with appropriate direction to the Respondent. The conduct of the Respondent is hit by the proviso of Section 15 (b) of the Specific Relief Act, 1963.

On the other hand, the respondent contended that at the time of opening of the savings bank account with the 2nd petitioner bank, Mr.Ranganathan appointed the respondent as the nominee for the savings bank account No.100002140590 with the 2nd petitioner's bank. It is understood, the nomination form of said Ranganathan was duly filled by the Branch Manager of the 2nd respondent's bank.

The respondent further contended that in the order passed by the Hon'ble Madras High Court in W.P.No.8709 of 2015, "The law is quite settled that the nominee is the trustee for other legal heirs. The respondents' responsibility(the petitioners herein) would end by allowing the nominee to receive the amount after the death of the deceased. In other words, the respondents(the petitioners herein) are duty bound to pay the amount." and the Hon'ble Madras High Court (Madurai Bench) in W.P.(MD) No.16236 of 2012 has passed an order stating that, "There was no legal requirement that a person nominated must be the legal heir or representative of the depositor". In-spite of all these conspicuous judgments, acts and RBI letter the petitioner bank is refusing to settle the claim and in the e-mail reply dated 24-03-2018, the petitioner’s bank has been insisting for a succession certificate too.

It is the further contention of the respondent that the petitioner’s bank handed over the cheque book and debit card of the deceased account holder to this respondent and his father's younger brother (Mr.R.Ranganathan), who is the original account holder, demised on 18-09-2017 and the petitioners' bank issued the debit card on 20-09-2017. The original account holder demised well before the account was created by the petitioner’s bank.

The respondent further contended that at the time of Mr. R.Ranganathan's death, he was 79 years old and this respondent was about 65 years old. Mr.R.Ranganathan was a graduate in Law and Doctor in Philosophy who was aware that it is not mandatory to mention the relationship status of the nominee in account opening form and there is possibility of him, requesting Shanmugasundaram, the 2nd petitioner Branch manager at Saligramam, who was known to him to fill up the pertained column of the form. This Respondent is 71 years old pensioner and has been claiming rightfully and the petitioner’s bank simply denies it with illegal reasons, and denies the claim for the past 6 years. Mr.R.Ranganathan was residing in a rented house at Abdul Azeez street, T. Nagar when he transferred the amount from City Union Bank to petitioner’s Bank and filled up the account opening form on 16.10.2017, he came to the respondent's residence at Chromepet to stay with him on 17.10.2017, the next day he died.

The Respondent further contended that he had properly complied with all necessary documents and proof at the time of opening account either by the respondent or deceased Ranganathan as per instructions given by the petitioner’s bank but thereafter they have refused to pay the proceeds to this respondent wantonly and deliberately with a view to defraud the amount of the deceased Ranganathan.

7. Upon hearing the rival contentions placed before this court, it is evident from records that the plaintiff's father's younger brother one Mr.R.Ranganathan has deposited a sum of Rs.52,00,000/- with the petitioner's bank and he demised on 18-09-2017. It is an admitted fact that the Respondent filed the above suit for Mandatory injunction, directing the 2nd Defendant Bank to pay the entire amount of Rs 52,00,000/- approximately along with interest lying in the Savings Bank Account No.100002140590 of the Late Mr.R.Ranganathan maintained with the 2nd Defendant Bank, to the plaintiff. The main contention of the petitioners is that the suit for mandatory injunction shall not lie against the petitioners' Bank and the claim of the plaintiff was to be rejected due to the reason of relationship mismatch between the depositor and the nominee as mentioned in the Account Opening Form and prayed for rejection of plaint that the plaint does not disclose a cause of action. There is no material documents marked on the side of the petitioners and no oral evidence is adduced. The issue involved in the suit as to whether the deceased Mr.R.Ranganathan had appointed the plaintiff as nominee or not?, Whether the relationship mismatch between the depositor and the nominee mentioned in the Account Opening Form or not? and whether the petitioners refused to pay the proceeds to the respondent with a view to defraud the amount of deceased Ranganathan or not? are all the facts to be decided by adducing proper evidence by both sides.

8. As far as the petition under Order 7 Rule 11 of CPC is concerned, the Hon'ble Supreme Court was pleased to hold that the application for rejection of plaint can be decided by the court on the basis of averments made in the plaint and filing of written statement by contesting defendants is not necessary. Moreover, when the plaint discloses joinder of number of causes of action on some of which a decree could be passed and some of which is liable to be rejected, it cannot be held that the plaint did not disclose cause of action. The statement averred in the plaint is probable and believable. The said statements are subject to proof only after the elaborate trial. Moreover, the plaintiff has narrated several events which were all prima facie supported by the documentary evidences. As per pleadings there is a cause of action for the suit. Therefore, the case of the plaintiffs at the first instance is acceptable and not rejectable. When the plaint discloses the arguable case, the plaint cannot be rejected.

On perusal of plaint, the plaintiff has specifically stated about the cause of action in para.18 of the plaint. Cause of action is the bundle of facts and the same could be proved after elaborate trial based on the Material facts/records and other related issues. Hence, at this stage, the plaint cannot be rejected on the ground of non-disclosure of cause of action.

Therefore, no ground is available to attract the provision of Order 7 Rule 11 of CPC and all the facts narrated by the petitioners requires oral and documentary evidence by both sides and thus there is no merit in this application and this court is declined to dismiss the petition.

Finally, this petition is dismissed. No cost.

Dictated to the Shorthand writer and directly typed by her and corrected and pronounced by me in open Court, this the 6th **day of December 2024.**

sd/-K.Kayathri

Additional District & Sessions Judge
Chengalpattu.

List of exhibits and witnesses on both sides: Nil

sd/-K.Kayathri
Additional District & Sessions Judge
Chengalpattu.

- - - - - - - - - - - - - - - - -

Draft/Fair Order
I. A.No.3/2023 in
O.S.No.6/2021
Dated:6.12.2024
ADJ/CPT

- - - - - - - - - - - - - - - -

<u>I.A.No.3/2023 in</u>
<u>O.S.No.6/2021</u>
Dated: 6.12.2024
<u>Order Passed</u>

Finally, this petition is dismissed. No cost.

ADJ/CPT