

ORDERS ON I.A.No.III

This Application is filed by the plaintiff Under/Or.16 R.6 r/w Sec.151 of C.P.C., for summing the documents from HDFC Bank, Churchgate Industry House H.T.Parkh marg Mumbai to furnish the FD Receipts held by Mr. Stanley Anthony D'Souza with customer ID 600049695.

2. This application is supported by an affidavit of Plaintiff No. 2, stating that, according to the information received by him, along with immovable properties, Mr. Stanley Anthony D'Souza held a Fixed Deposit of One Crore Rupees in his name with HDFC Bank, Mumbai, as of the date of his death. Plaintiff No. 2 approached the Branch Manager of HDFC Bank, Mumbai, to verify the status of the fixed deposit; however, the Branch Manager orally informed him that the amount had already been released but did not provide any further information regarding to whom the amount was released, the exact amount released, or the authority under which the release was made, despite Plaintiff No. 2's written requests. The Branch Manager also informed that if the bank receives any official notice to furnish details of the fixed deposit, they can provide the relevant information. The respondent is the recipient of the said amount, to which the plaintiffs are entitled as Class I heirs of the deceased. The above information is essential for the proper adjudication of the case. Accordingly, the application is prayed to be allowed.

3. This application opposed by defendant by filing objection. In the objection the defendant denied the affidavit averments.

4. Heard arguments on both side. The following

point arises for my consideration:-

1. Whether the information sought by the plaintiffs from the HDFC Bank Mumbai is necessary to determine the dispute between the parties?

5. My answer to the above point is in *Affirmative* for the following:-

REASONS

6. **Point No.1:-** At the outset of this application, the plaintiffs have filed a petition under Section 278 read with Section 219 of the Indian Succession Act, seeking a Letter of Administration in respect of the scheduled properties belonging to the deceased, Mr. Stanley Anthony D'Souza. After appearance of the defendant this petition was converted as Suit. The case of the plaintiffs is that they are the mother and brother of Mr. Stanley Anthony D'Souza, who died on September 28, 2021, in Mumbai, leaving them as the sole heirs entitled to succeed to the property left by him. It is further stated that, according to information, Mr. Stanley Anthony D'Souza had deposited One Crore Rupees as a fixed deposit with HDFC Bank, Mumbai, as of the date of his death. Plaintiff No. 2 approached the Branch Manager of HDFC Bank to verify the status of the fixed deposit; however, the Branch Manager orally informed that the amount has already been released and that if they receive any official notice to furnish details of the fixed deposit, the bank can provide the relevant information to the Court.

7. To establish the existence of the fixed deposit amount or it was release to defendant, including details of the amount released, the recipient, and the statement of

account, the plaintiffs seek to summon documents from HDFC Bank, Mumbai, to demonstrate that Mr. Stanley Anthony D'Souza had deposited the said amount.

8. The plaintiff seeks to summon the documents as well as information from the Bank to demonstrate that the defendant has received the FD amount deposited by the deceased Stanley Anthony D'Souza and to establish that the defendant was not related to the deceased she get the amount from the bank. The plaintiff asserts that they are the sole legal heirs of the deceased Stanley Anthony D'Souza. It is further stated that despite requesting the Bank Manager to furnish the information, the request was declined, indicating suppression of the true facts. The summoning of the documents and information as mentioned in the plaintiff's application is necessary to adjudicate the dispute between the parties. Therefore, this court is of the opinion that summoning the documents is essential to complete the adjudication of the dispute between the parties. Accordingly, Point No.1 answered in *Affirmative* and I pass the following:-

ORDER

I.A.No III filed by the Plaintiff is allowed.

Issue summons to the Branch Manager of HDFC Bank, Churchgate Branch, Mumbai, directing them to furnish the information sought by the plaintiffs in I.A. No. 3 on the next date of hearing through Speed post if P.F. Paid.

IX ADJ
Bengaluru (R.) District,
Bengaluru.