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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **CS (OS) 2139/2014 and I.A. 2755/2016, I.A. 8156/2016**

SANGEET SHEKHAWAT & ANR ..... Plaintiffs

Through: Mr. M.A. Niyazi, Advocate and Ms. Anamika, Advocates. (M: 9810413706)

Versus

ANIL VEDI & ORS ..... Defendants

Through: Mr. Lalit Bhardwaj, Advocate for Defendant No. 1. (M: 9212117811)
Mr. Sanjay Gupta, Advocate with Mr. Ateev Mathur, Mr. Amol Sharma and Ms. Jagriti Ahuja, Advocates for Defendant No. 3. (M: 9958609042)
Ms. Pratima N. Labra, Advocate (M: 9968324260) for M/s.Birla Sunlife Insurance along with Mr. Yogesh Mahajan, Manger of M/s Birla Sunlife. (M: 9718503368)

CORAM:
JUSTICE PRATHIBA M. SINGH

O R D E R

% 23.07.2018

1. This case reveals a completely disappointing state of affairs in respect of investments made by citizens and betrayal of the trust which the citizens place in banks and financial institutions.

2. Mr. H.S. Vedi, a qualified Architect settled in Kuwait since late 1960s, had his businesses in various countries of the world including the Middle East, England, U.S.A. and India. He had various immovable and

movable properties in India and abroad. He expired intestate on 24th August, 2013 in Kuwait and was cremated in India. He left behind three children, namely two daughters and one son. The daughters are the Plaintiffs in the present suit.

3. The Plaintiffs filed a suit for partition in this Court. On 22nd July, 2014 this court had passed a restraint order in respect of various bank accounts, lockers, fixed deposits, etc of Late Shri. H.S. Vedi. The relevant portion order of the order reads as under:

> *"7. I have heard counsel for the plaintiff and perused the plaint, application and the supporting documents. I am satisfied that this is a fit case for grant of ex parte ad interim injunction. Accordingly, till the next date of hearing all the parties are restrained from operating following bank account(s)/locker(s), fixed deposits of late Shri H.S. Vedi either in India or in Kuwait*:
>
> *(i) Commercial Bank of Kuwait, US Dollar A/c.No.0159820200840012;*
>
> *(ii) Commercial Bank of Kuwait, Kuwaiti, Dinar A/c.No.0159820100414012;*
>
> *(iii) National Bank of Kuwait, Kuwaiti Dinar A/c.No.1001931103;*
>
> *(iv) Standard Chartered Bank, Narain Manzil, 23 Barakhamba Road Branch, New Deihi-110 001:*
>
> *(a) NRE A/C..- 52210082719*
>
> *(b)NRO A/C..-. 52210087702*
>
> *(v) Canara Bank NRE account, R.K. Puram Sector-13 branch. NewDelhi.*
>
> *(vi) Syndicate Sank, Mumbai, having account No.01-01-095480*
>
> *8. All the parties are also restrained from selling, alienating, creating third party right in the following properties owned by late Sh.H.S. Vedi:*
>
> *(i) A-219, New Friends Colony, New Delhi;*

(ii) Flat No.303, Aradhana Apartment, Burmah Shell Housing Society, Sector-13, R.K. Puram, New Delhi;
(iii) Flat No.306, Aradhana Apartment, Burmah Shell Housing Society, Sector-13, R.K. Puram, New Delhi;
(iv) Commercial Premises No.-8B, Hansaiaya Building, Barakhamba Road, Connaught Place, New Delhi".

4. Subsequently, various orders have been passed by the court in respect of the rental amounts and deposits to be made in court. A preliminary decree was passed by this Court on 4th December, 2015 in the following terms:-

> *"This suit seeks a decree of partition amongst the two plaintiffs and defendant No.1 in equal shares in the estate of their father Mr. H.S. Vedi, who passed away intestate.*
>
> *The defendant No.1 was proceeded ex parte on 13th August, 2015. There has been no representation on behalf of the said defendant for the last ten listings of the case neither is anyone present on behalf of the said defendant today.*
>
> *There is neither any opposition to the relief sought nor is there any impediment for the grant of a preliminary decree.*
>
> *<u>Accordingly, a preliminary decree is passed in favour of the aforesaid parties, i.e., the two plaintiffs and defendant No1, who shall have 1/3rd share each in the estate of late Mr. H.S. Vedi.</u>*
>
> *List for further proceedings on 10th December, 2015".*

5. Thus, all the three legal heirs of late Shri H.S. Vedi were vested with 1/3rd share of his estate. On 22nd December 2015, the Plaintiffs were permitted to approach the various banks and financial institutions for

claiming of their respective shares. It was specifically recorded in paragraph 2 of the said order which reads as under:-

> *"2. The learned counsel seeks similar reliefs apropos the following investment portfolios which have been made through Standard Chartered Bank as under:*
>
> *"(1) FOLIO NO. : 1016244326 - OFFLINE*
> *(P) Birla Sun Life Frontline Equity Fund*
> *(p) Birla Sun File Frontline Fund*
> *Birla Sun Life Asset Management Co.Ltd.*
> *406-415, 4th Floor, Narain Manzil 123, Barakhamba Road, New Delhi- 110001.*
>
> *(2) FOLIO NO: 401137282923 - OFFLINE*
> *(P) Reliance Banking Fund*
> *(P) Reliance Banking Fund*
>
> *(3) FOLIO NO: 403135369736 - OFFLINE*
> *(P) Reliance Dula Advantage Fixed Tenure Fund –II - Plan D Growth Plan*
> *Reliance Capital Asset Management Ltd. 807, 8th Floor, Ashoka Estate Building, 24, Barakhamba Road, New Delhi-110001*
>
> *(4) FOLIO: 6347579/12 - OFFILINE*
> *(P) ICICI Prudential Income - Regular Plan Growth*
> *ICICI Prudential Mutual Fund, 12th Floor, Narain Manzil,*
> *Barakhamba Road, New Delhi-110001."*
>
> *Standard Chartered Bank is directed to redeem the said investments and deposit the same in the Court which shall then be shared between the plaintiff and defendant No. I as decreed. The Portfolio Manager shall supply complete statements of accounts to the Standard Chartered Bank which shall be filed in the Court.*

6. One of the investment portfolios of Mr. Vedi was taken through Standard Chartered Bank with Birla Sunlife folio no. 1016244326. On 26th February, 2016 it was brought to the notice of the Court that the investment in the said folio was redeemed to the extent of Rs.51 lakhs on 18th August, 2015, i.e. almost 2 years after the death of Mr. H.S.Vedi and the amount, therefore, could not be deposited with this Court. All the remaining investments were redeemed and the monies have been deposited and distributed amongst the three legal heirs, except some rental amount.

7. On 15th July, 2016 notices were issued to Birla Sunlife Asset Management Co. Ltd., and the details of the mutual fund were given to them. However, no replies were filed by Birla Sunlife Asset Management Co. Ltd. Repeated adjournments were sought. On 8th September, 2017 it was again noticed that Birla Sunlife Asset Management Co. Ltd. had not filed its reply. On 13th July, 2018 this court passed the following order:-

> *"Counsel for M/s. Birla Sunlife Asset Management Company Ltd. submits that the copies of the documents were supplied only on 3rd July, 2018 and hence no reply was filed. The counsel for the Plaintiffs submits that the counsel, who appeared for the said company, did not provide the address and was not traceable.*
>
> *The excuse given by the counsel for M/s. Birla Sunlife Asset Management Company Ltd. is completely unacceptable, inasmuch as the Manager of the said company was present in Court on 8th September, 2017 and was given the details of the Mutual Fund Folio No.l016244326. The allegations in this case are very serious as the entire investment of Rs.51 lakhs through Mutual Fund Folio No. 1016244326 has not been returned to Standard Chartered Bank despite the stay order of this Court. The Company shall file an affidavit*

as a last opportunity, within one week as to the status of Mutual Fund Folio No. 1016244326. The complete records of this folio shall also be produced.

If the affidavit is not filed within one week, bailable warrants in the sum of Rs. 10,000/- shall be issued against Mr. Yogesh Mahajan, Manager, M/s. Birla Sunlife Asset Management Company Ltd., returnable on 23rd July, 2018. The same be served through the SHO of the area concerned. He shall remain present on the next date of hearing.

The General Manager of Standard Chartered Bank shall also be present on the next date. Records of Standard Chartered Bank as to how the investment of Mr. H. S. Vedi was made in M/s. Birla Sunlife Asset Management Company Ltd. in Mutual Fund Folio No. 1016244326 as also the complete records of the said investment shall also be produced on the next date."

8. Today, Mr. Yogesh Mahajan, Manager of Birla Sunlife Asset Management Co. Ltd. is present in Court. Ms. Pratima Labra, counsel for Birla Sunlife Asset Management Co. Ltd has passed across an affidavit signed by him, giving details of the said portfolio. Paragraph 4 of the affidavit reads as under:-

"4. Deponent states that the said amount was invested in Birla Sun Life Frontline Equity Fund on 05 July 2013. <u>A change of bank mandate was received by CAMS Delhi who is the Company's Registrar and Transfer Agent on August 13, 2015 from Standard Chartered Bank to ICICI Bank along with which a request was made to change the Email Id from vedi@yahoo.com, which was initially provided in the common application form, to hsvedi1967@gmail.com.</u> Through the request letter it was requested for release of all pending dividend in folio number 1016244326 through ICICI Bank Account number 660301700097 having IFSC Code of ICIC0006603 at Patiala Branch.

The aforementioned request for change of bank mandate and change of email id was signed by the investor Harbhajan Singh Vedi. Based on the validation of the signature of the investor Harbhajan Singh Vedi, the changed bank mandate and Email ID were registered by the Deponent".

9. Thus, it is claimed by Birla Sunlife Asset Management Co. Ltd. that two years after the death of Mr. H.S. Vedi, a letter was received by them purportedly signed by him, forwarded to it through CAMS (Computer Age Management Services), Delhi, that his bank account details have changed and email address has changed. Birla Sunlife Asset Management Co. Ltd., without verifying anything further, changed the account details and the email address. Immediately thereafter, through a net banking operation, the entire money lying in the account of Mr. H.S.Vedi's mutual fund folio was transferred to the ICICI Bank in Patiala. The affidavit of the Mr. Yogesh Mahajan is accompanied by an alleged letter dated 13th August, 2015 signed by Mr. H.S.Vedi, forwarded by an agency called CAMS Delhi, which according to Mr. Mahajan, is the agency which collects and distributes instructions relating to the various investment portfolios. According to him, a letter was received by CAMS Delhi on 13th August, 2015, which reads as under:-

"To
Birla Sun Life AMC

Subject- Revalidation Letter

Dear Sir/Madam
Please release my all pending dividend in Folio number 1016244326 in my update bank details which are as follows:

Bank Name:- ICICI Bank.
Branch Address: - PATIALA
Account Number:- 660301700097
IFSC Code:- ICIC0006603
A/C TYPE- NRE
Original Cancel cheque attached.

And kindly update my email id as
Hsvedi1967@gmail.com
Thanking you

Name & Signature

HARBHAJAN SINGH VEDI"

10. According to Birla Sunlife Asset Management Co. Ltd., the signatures on this letter matched the signatures which they had in their records. Interestingly, on 13th August, 2015 itself, this Court had passed an order on the basis of a letter issued by Standard Chartered Bank-Defendant No. 3 dated 14th August, 2014, that the Defendant No. 3 i.e. Standard Chartered Bank shall not redeem the various investments of Mr. Vedi. The relevant portion of the said order reads as under:-

> *"**IA No. 16689/2015***
> *This application seeks direction apropos investment portfolios of late Shri H.S. Vedi, which were made through the Standard Chartered Bank, i.e., defendant No.3. According to a letter dated 14.8,2014 of defendant No.3, the investment portfolio is still with the Standard Chartered and the funds will be monitored through the said Bank only. The applicants seek (i) an injunction against redemption of the portfolio and (ii) automatic renewal of such portfolios which may be for a limited period; in other words the plaintiffs/applicants seek that the estate be preserved till the final adjudication. Accordingly, defendant No.3 is directed not to redeem the various investments made*

by Late H.S. Bedi without further orders from the Court.
The application is disposed off in the above terms.
A copy of this order be given dasti under the signature of the Court
Master."

11. Thus, it is uncanny that on the very day that this Court passed an order that Standard Chartered Bank would be monitoring the funds of Shri H.S. Vedi and that the same would not be redeemed, a letter is purportedly received by M/s Birla Sunlife Asset Management Co. Ltd. with an instruction to change the bank account number and the email address. Birla Sunlife Asset Management Co. Ltd. presumed that the sign was verified by CAMS Delhi and changed the bank account details and email address, due to which the entire invested amount of Rs. 51 Lakhs has been redeemed by an unknown person.

12. The above sequence of events reveals a shocking state of affairs, that two years after the death of Mr. H.S. Vedi, on the basis of a letter which he obviously could not have written, his investment relating to this mutual fund portfolio has completely vanished in thin air, which has apparently happened due to the completely callous attitude of four organisations, namely, Standard Chartered Bank, Birla Sunlife Asset Management Co. Ltd., CAMS Delhi and ICICI Bank, Patiala. None of the organisations present before the Court, namely, Standard Chartered Bank and Birla Sunlife Asset Management Co. Ltd. are willing to take responsibility for what has happened. There is no doubt about the fact that Standard Chartered Bank had represented to this Court at the time of passing of order dated 13th August 2015, that the investments are with Standard Chartered Bank and

that the funds would be monitored by the bank as recorded in the order dated 13th August, 2015. In fact in the letter dated 14th August, 2014 Standard Chartered Bank had represented to the Court that entry restrictions have been put on the accounts and investments of Mr. Vedi.

13. Mr. Gupta submits that in the letter dated 14th August, 2014 it has been made clear that the other funds managers also need to be informed of the same. Be that as it may, the orders having been passed by this Court in the presence of Standard Chartered Bank, it had responsibility to ensure that the funds are not redeemed, as the basic account of Mr. Vedi was with Standard Chartered Bank, through whom the investment was made.

14. The above sequence of events also shows that there are serious loopholes in the procedure being followed by these banks and financial institutions. The legal heirs of Mr. Vedi, three years after the preliminary decree was passed, have still not been able to secure and redeem the investments of Mr.Vedi. Out of the two plaintiffs one of the daughters is a single girl living in the USA and one of the daughters has two special children with special needs. Due to the completely careless and negligent attitude of the banks/financial institutions, despite being fully protected by orders of this Court, they are unable to redeem their father's investments.

15. It is clear that *prima facie*, the banks/financial institutions and agencies are responsible for this state of affairs and are jointly/severally liable. Affidavits are directed to be filed by all the three organisations i.e. Standard Chartered Bank, CAMS Delhi and ICICI Bank, Patiala and explain their positions. The affidavits shall specifically deal with the following:

a) What were the investments made by Mr. H.S. Vedi through Standard Chartered Bank over the years when he maintained his bank account with them? Was Birla Sunlife mutual fund recommended to Mr. H.S. Vedi by Standard Chartered Bank?

b) Whether Birla Sunlife mutual fund was an investment made by Mr. Vedi through Standard Chartered Bank?

c) Whether Standard Chartered Bank gave consent to CAMS Delhi for issuance of the letter dated 13th August, 2015 to Birla Sunlife Asset Management Co. Ltd.?

d) Whether CAMS Delhi received any communication from Standard Chartered Bank in respect of nomination of new account and email address of ICICI bank in the name of Mr. H.S. Vedi?

e) Whether CAMS Delhi collected any documents in respect of the new bank account at ICICI Bank of Mr. H.S. Vedi?

f) ICICI Bank Patiala to produce the account opening forms along with all the documents and details relating to transfer of amounts credited to the new bank account of ICICI Bank, Patiala? Did ICICI Bank, Patiala not verify the credentials of the person opening the new bank account in the name of Mr.H.S.Vedi?

16. Senior officials from all four organisations i.e. Standard Chartered Bank, Birla Sunlife Asset Management Co. Ltd., CAMS Delhi, ICICI Bank, Patiala to remain present in Court on the next date.

17. Notice be issued to the President and Chief Executive Officer, CAMS Delhi (7-E, 4th Floor Deen Dayal Research Institute Building, Swami Ram Tirath Nagar, Jhandewalan Extension, Near Videocon Tower, New Delhi-11005) to be served through the SHO of the area at Jhandewalan Extension. In addition notice be served via email camsdel@camsonline.com. CAMS

Delhi to be served by counsel for the Plaintiffs in addition and by Birla Sunlife Asset Management Co. Ltd. as well.

18. Insofar as ICICI Bank is concerned, Mr. Punit Bhalla, Advocate accepts notice and is directed to file an affidavit.

19. The DCP (Economic Offences Wing), Delhi Police, is directed to nominate a senior official to appear before this Court on the next date. Notice be issued to the DCP (Economic Offences Wing), Delhi Police for the next date.

20. All affidavits shall be filed before the next date, after exchanging copies.

21. List on 1st August, 2018. Order *dasti*.

PRATHIBA M. SINGH, J

JULY 23, 2018
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