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

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

SANGEET SHEKHAWAT & ANR ..... Plaintiffs

Through: Mr. M.A. Niyazi & Mr. Manish Kumar, Advocates (M-9810413706).

versus

ANIL VEDI & ORS ..... Defendant

Through: Mr. Lalit Bhardwaj & Mr. Jatim Anand Dwivedi, Advocate for D-1
Mr. Yogesh Mahajan (M-9718503368).
Mr. Manish Kanchan, Advocate for Aditya Birla Sun Life (M-9820241072).
Mr. Minu, Advocate for Aditya Birla Sun Life (M-9769915079).
Mr. Ravinder Sethi, Senior Advocate with Mr. Sanjay Gupta, Mr. Ateev Mathur, Ms. Jagriti Ahuja, Mr. Amol Sharma & Mr. Akull Raj Leekha, Advocate for D-3 (M-9213743613)
Mr. Sandeep Suri & Mr. Kashish Narang, Advocate for ICICI Bank (M-9999391994).
Mr. M.S. Shekhawat, ACP with Mr. Jitendra Singh, SI (m-9968001938).

CORAM:
JUSTICE PRATHIBA M. SINGH

O R D E R

% **10.08.2018**

1. Further to the last orders, affidavits have been filed by ICICI Bank,

CAMS Delhi, and Birla Sun Life Asset Management Co. Ltd..

2. The affidavit of ICICI bank has annexed copies of documents to justify the opening of the bank account in the name of Mr. H.S.Vedi. It relies upon a copy of the passport of Mr. H.S.Vedi bearing no. Z2182419. The stamps on the said document show that Mr. H.S.Vedi is claimed to have been personally present before the officer as the remark *`Applicant signed in my presence'* appears on the same. The officer who has signed the same is Mr. Gurvarinder Singh. It also states *`Photo verified with original'* with the same officer signing below the said seal. The Passport copy is also claimed to have been *`Verified with Original For ICICI Bank Limited'* and has been signed by the same officer. A bare perusal of the signature which appears on the copy of the passport shows that the signatures on the passport do not match the signatures of the new person who has signed. The original Account opening form produced on record also shows that the photograph of the person opening the account does not match the photograph appearing on the passport. It is clear that even the basic verification has been given a complete go-by. The forms are also cross verified by the officials of ICICI Bank, and show that the original passport copy containing the signature of Mr. H.S. Vedi and the new signature do not match. Despite that, ICICI Bank officials have accepted the change of signature and opened an account in the name of Mr. H. S. Vedi. At page 14, the letter purportedly issued by Mr. H.S.Vedi, stating that the signature has been changed, which is the Signature Mismatch Verification Form, does not contain the original signatures which are in the copy of the passport.

3. A perusal of the account opening form which has been handed across shows that some person has appeared before the bank as Mr. Harbhajan

Singh Vedi and the account has been opened without any verification. Two officials have verified the account opening forms and the other documents. They are Mr. Gurvarinder Singh and Mr. Amrinder Singh Chopra. It is stated that Mr. Gurvarinder Singh has left the employment of ICICI Bank, Patiala. However, Mr. Amrinder Singh Chopra is still working with ICICI Bank. The original account opening form is taken on record. A copy of the same shall be given to all the counsels by the Court Master. Page 15 of the ICICI Bank's affidavit also shows a copy of a page of a passport which shows that the person entered India on 7th July, 2015. The affidavit along with the annexures, filed by ICICI Bank, Patiala shows that the officials/management of ICICI Bank have been negligent to say the least.

4. Ld. Sr Counsel for Standard Chartered Bank submits that the original passport was only in the custody of the Defendant no.1 and it is strange as to how the passport of the deceased Mr. H.S. Vedi could have been produced before the bank, without the connivance of Defendant no.1. Since allegations were made by the heirs of Mr. H.S.Vedi that there was siphoning of the amounts lying in a mutual fund account, the Court had issued notice to all the agencies involved in the amounts lying in the mutual funds being withdrawn. In order to enquire as to who is in custody of the original passport of Mr. H.S. Vedi, Plaintiff No.1 and Defendant No.1 shall remain present in court on the next date. They shall also carry with them their original passports. Plaintiffs and Defendant No.1 shall also filed their affidavits to confirm as to whether the family knows any individuals by the name of Mr. Anand Prakash Dewan, Mr. Arindam Chakarbarti, Ms. Bharati Misra, Mr. Krishan Kishore Dhawan and Mr. Rajit Verma who are all the persons in whose favour the amount which was credited after encashing the

amount of mutual fund account of Birla Sun Life, was transferred.

5. CAMS, Delhi has filed an affidavit that as per the Service Level Agreement with Birla Sun Life Asset Management Co. Ltd., the only procedure they need to follow as per the Clause 2 on the section relating to non-financial transaction, which is reproduced herein below:

Non-Financial Transactions				
S.No.	*Service*	*Input Dependencies*	*Exception & Rules*	*TAT*
1......	-----	-----	-----	-----
2.	*Change of Bank mandate*	*Signature on the request will be verified with the folio. Documents required as follows:* *1. "Cancelled" original cheque leaf** of new Bank Mandate (bearing account number and first named unit holder on the face of the cheque)* *2. (a) Original bank account statement. True copy if the bank account statement may be accepted only if the original bank account statement is brought to AMC Investor Service Centre for physical verification, in which case the original bank account statement will be returned*	*If the signature tallies and the request to the mode of holding the Change of bank will be updated in the folio. A letter of confirmation will be sent to the investor by courier wherever service is available and for non-service location the confirmation will be sent through speed post in addition to Email, if the same is registered.* *If the signature does not tally or the request has not been signed according to the mode of holding the Change of Bank Mandate will not be updated in the folio.*	*T-3 Days, where T is the document received processing, updation, QC and communication to investor. Scan based implemented and only for those illegible cases, originals may be referred to.* *Change of Bank Mandate will be updated to all schemes (at folio level) where investor is holding more than one scheme. If investor request to update to any specific scheme, which will be considered for folio level updation.* *If a folio registered with multiple bank mandate, change of mandate request will*

		across the counter after due verification; or *(b) True copy of the Bank passbook, Original Bank passbook should also be brought to ISC for verification, Original Bank passbook will be returned across the counter after due verification; or* *(c) a letter (in original) from the bank on its letterhead certifying the name of the bank account holder(s), along with information like bank account number, bank branch, account type, and optionally the MICR code of the branch & IFSC Code (where available)* *In respect of (a), (b) and (c) above, they should be certified by the bank manager with his / her full signature, name, employee code, bank seal and contact number.* *For instances where*	*A letter intimating the rejection will be sent to the investor by courier wherever service is available and for non-service location the confirmation will be sent through speed post in addition to Email, if the same is registered.*	*be considered as change in default bank mandate only.* *Change of bank mandate on folios with AUM> Rs.1 Lac (AUM for this purpose will be as at the time of updating change of bank mandate in the folio).* *a) Change of bank mandate with Redemption* *CAMS will process redemptions and hold payouts. Data for such agency appointed by AMC / AMC who will be completing IPV and confirming to CAMS. Based on IPV confirmation received within 7 days from the date of redemption, CAMS will release the payouts. Where IPV confirmation is not received within 7 days, CAMS will release payout on the 8th day to the old bank mandate by default.*

		there is a change in contact details (email / mobile number) within the previous 30 days from date of change of bank mandate updation, CAMS will trigger COM intimation to both old and new contacts.		*b) Stand-alone change of bank mandate.* *For COM received as stand-alone request, CAMS will update the change of bank mandate and share the date with IPV agency appointed by AMC / AMC who will be completing IPV and confirming to CAMS. These folios will be blocked for any redemption payout. Based on IPV confirmation received within 7 days from the date of updation, CAMS will release the block on payouts. Where IPV confirmation is not received within 7 days, CAMS will not roll back the COM on 8th day to the old bank mandate by default.*

6. According to CAMS Delhi, only a cancelled cheque of the new bank account is to be given in order to effect a change in the Mutual Fund Account of any customer. The conditions to be fulfilled, as per CAMS Delhi, are mutually exclusive and even if one of them is followed, then

CAMS Delhi makes the necessary corrections in the system. In the present case, CAMS Delhi has placed on record a copy of the cancelled bank cheque of ICICI Bank being 002077 in the name of Mr. Harbhajan Singh Vedi. An undated letter was accepted by CAMS Delhi on 13th August, 2015 at 1:20 P.M. The surprising thing is that CAMS Delhi never verified the same with either Standard Chartered Bank or with Birla Sun Life Asset Management Co. Ltd., through whom the mutual fund account was opened, as to whether the letter was genuine, whether the bank account was genuine and whether the cheques were genuine. According to learned counsel for CAMS Delhi, it is not required to do that.

7. Considering the manner in which by merely giving the letter over the counter, the email address was changed, the bank account details were changed, the signature was also changed, and the entire mutual fund was encashed, it is deemed appropriate that SEBI, which is present in court, may examine the matter and consider passing guidelines in respect of the functioning of mutual fund agencies like CAMS Delhi, and other RTAs (Registered Transfer Agents). A proper process needs to be put in place to ensure that the amounts lying in mutual funds can be transferred, only after proper checks are done by these agents and the banks. An affidavit be filed by SEBI within four weeks explaining as to what are the guidelines relating to RTAs, currently in operation in order to ensure that incidents like this are not repeated as also what steps can be taken to improve the functioning of such RTAs, to the satisfaction of account holders.

8. Standard Chartered Bank has pointed out to this Court that Defendant No.1 has filed an affidavit on 4th September, 2017, pursuant to directions of this Court that the account statement of NRE account 66301700097

reflected that the account of ICICI Bank was opened in July, 2015 in the name of Mr. H.S. Vedi. Defendant No.1, Mr. Anil Vedi, is directed to bring the account statement referred to in para 2 of his affidavit. ICICI Bank, Patiala to explain as to how they obtained the address of Mr. Harbhajan Singh Vedi PO Box 23228, Safat, 23228, Safat Kuwait where they sent the bank account statement, as on 31st March, 2016 which is referred to in the affidavit of Defendant no.1.

9. Mr. M.S. Shekhawat, ACP is present in Court pursuant to the direction of the court in the last order. The Delhi Police is directed to investigate as to the manner in which the mutual fund bearing no.1016244326 was encashed and as to who were the individuals who are the ultimate beneficiaries of the amount which has been encashed. The Police authorities would look into the bank accounts of Mr. Harbhajan Singh Vedi opened in ICICI Bank, Patiala as also the accounts of Mr. Anand Prakash Dewan in Punjab & National Bank, Patiala, Mr. Arindam Chakarbarti in Dena Bank Patiala, Ms. Bharti Misra in HDFC Rajpura, Mr. Rajit Verma in State Bank of Patiala, Patiala.

10. The Delhi Police may question all the officials who were involved in the account opening of ICICI Bank, Patiala in the name of Mr. H.S. Vedi and submit a status report before the next date of hearing. The Delhi Police shall also look into the question as to who handed the letter to CAMS, Delhi, received on 13th August, 2015 at 1:50pm, purportedly signed by Mr. H.S. Vedi. The affidavit of ICICI Bank and account opening form is taken on record. A copy of the same is provided to the Delhi Police.

11. All the affidavits handed to the Court on behalf of Birla Sun Life Asset Management Co. Ltd., CAMS, Delhi and ICICI Bank, Patiala are

taken on record.

12. List on 11th October, 2018.

13. A copy of this order be given *dasti* under signature of the Court Master.

PRATHIBA M. SINGH, J.

AUGUST 10, 2018
Rahul