



Dixit

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

TESTAMENTARY PETITION NO.127 OF 1994

Adeline RodriguesAdministrator

V/s.

Girish Nautmal Jani and Anr.Respondents

Ms. Adeline Rodrigues, the Administrator, is present.

Mr. K.A. Suryanarayanan, with Mr. Rajkumar Gaikwad, for Axis Bank.

Ms. Akanksha Patil, i/by Ms. Pushpa Thapa, for Respondent No.2.

Mr. S.J. Khara for Gul Kriplani.

CORAM : A.K. MENON, J.

DATED : 28TH NOVEMBER, 2019.

P.C. :

1. Prima facie it appears that Axis Bank could not have permitted the pay order dated 9th September 2014 to be credited to Shree Satkar Co-operative Credit Society Limited. It is not understood on what basis the Axis Bank could have credited the account of the Shree Satkar Co-op. Credit Society; especially since the instrument in question was a banker's cheque issued by HDFC Bank Limited in the name of the wife of the deceased, who had predeceased the deceased. The fact that the pay order / banker's cheque was non-negotiable was pointed to the learned counsel for the Axis Bank, who seeks time to



obtain instructions and file an additional affidavit setting out the basis on which the pay order was credited to the account of the said Credit Society.

2. Ms. Rodrigues informs me that a person claiming to be the Chairman of the said Credit Society had telephoned her today to state that his Advocate has been hospitalized and hence could not remain present. It is made clear that on the next occasion, the Chairman of the Credit Society and his Advocate shall remain present before the court. Accordingly, I pass the following order :-

- (i) Axis Bank shall file an affidavit setting out the basis of crediting the aforesaid amount, with advance copy to the Administrator. Let such affidavit be filed on or before 5th December 2019 in the registry, with advance copies thereof to all other parties.
- (ii) Parties shall exchange copies of all affidavits filed among each other without any further directions of the court within one week from today.
- (iii) List the matter on 11th December 2019.
- (iv) In the meantime, the Administrator shall address an intimation to Shree Satkar Co-op. Credit Society to



ensure that the Chairman of the said society and Advocate instructed in the matter remains present in the court on 11th December 2019 and that no further intimation will be given to them, failing which appropriate orders may have to be passed on the next occasion to secure their presence.

(A.K. MENON, J.)