

Augustine Toppo and ors. Vs. State of Bihar

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Court : Jharkhand

Decided On : Mar-24-2004

Reported in : [2004(3)JCR552(Jhr)]

Judge : Hari Shankar Prasad, J.

Acts : Succession Law

Appeal No. : Misc. Appeal No. 190 of 1998 (R)

Appellant : Augustine Toppo and ors.

Respondent : State of Bihar

Advocate for Def. : Md. Shamim Akhtar, SC-II,; Md. S.Y. Warsi and; A.K. Meht

Advocate for Pet/Ap. : H.K. Mehta, Adv.

Judgement :

Hari Shankar Prasad, J.

1. This appeal arises out of order dated 17.9.1998 passed in Succession Case No. 163 of 1995 by 5th Additional Judicial Commissioner, Ranchi whereby the case was dismissed in part for Rs. 99,825/- deposited in Double Benefit Deposit Scheme dated 25.5.1988 in Account No. L.F. No. 1534 in Dank of India, Khelari Branch in the name of Mariam Toppo.

2. The case of the appellants-applicants in brief is that Mariam Toppo and Paloosh Toppo were the husband and wife respectively and applicants are their grand sons and grand daughters. Mariam Toppo died on 3.4.1992 leaving behind her only son Albis Toppo who also died on 29.10.1994 leaving behind three sons Augustin Toppo, Alexeus Toppo and Andrias Toppo and they are applicants here. The applicant Alexeus Toppo died during the pendency of this case and his heirs were substituted as applicant No. 2 to 2 (O). Further, Poloosh Toppo died since long when the father, of the applicants was minor and that the deceased Mariam Toppo and her son Albis Toppo had deposited Rs. 50,000/- in fixed deposit in Bank of India, Khelari Branch, Ranchi having account No. 1564 on 21st May, 1988 and now it has become Rs. 99,825/- after maturity and further the deceased Marim Toppo and Albis Toppo had deposited the money jointly in the saving bank account No. 2110 in the Bank of India, Khelari Branch and the amount is now Rs. 660/-. The applicants claim themselves to be the only legal heirs of Mariam Toppo and Albis Toppo and have prayed for issuing Succession Certificate for those amounts. On behalf of the applicants, some witnesses were examined and after taking evidence of the parties, the learned Court below has allowed the prayer in part.

3. Heard learned counsel for the parties.

4. During the course of hearing, learned counsels appearing for their respective parties argued that the judgment of the learned Court below be set aside and case be remanded back for points raised in this appeal will be considered by the learned Court below and a fresh order may be passed in accordance with law considering the points raised in the appeal.

5. In that view of the matter, the impugned order dated 17.9.1998, passed in Succession Case No. 163 of 1995 is hereby set aside, so far as rejection order is concerned and the matter is remanded back to the learned Court below for fresh consideration as the amount lying in bank to the tune of Rs. 99,825/- will actually be paid to the legal heirs of the depositor and the learned Court below after considering the facts, will pass order in accordance with law and will dispose of the matter within three months from the date of receipt of copy of his order.

6. With this observation/directions, this misc. appeal is disposed of.

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