~. REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1684 OF 2004

RAM CHANDER TALWAR & ANR. ...APPELLANTS

VERSUS

DEVENDER KUMAR TALWAR & ORS. ...RESPONDENTS

O R D E R

Heard counsel appearing for the appellants.

Appellant no.1, who was the nominee in the bank account held by his deceased mother claims full rights over the money lying in the account, to the exclusion of the respondent who is none else than his full brother. The claim is based on section 45 ZA of the Banking Regulation Act, which according to him, makes the nominee of the depositor the sole beneficiary, vested with all the rights of sole depositor.

Mr. Swetank Shantanu, counsel appearing for the appellants, strenuously argued that by virtue of sub-section 2 of section 45 ZA, the nominee of the depositor, after the death of the depositor acquires all his/her rights to the express exclusion of all other persons and, therefore, the respondent can not lay any claim to the money in the account or in regard to the articles that might be lying in the bank locker held by their deceased mother.

The submission is quite fallacious and is based on a complete misconception of the

provision of the Act. Sub-section 2 of the 45ZA, reads as follows:-

45ZA xxx xxx xxx xxx

(2) Notwithstanding anything contained in any other law for the time being in force or in any disposition, whether testamentary or otherwise, in respect of such deposit, where a nomination made in the prescribed manner purports to confer on any person the right to receive the amount to deposit from the banking company, the nominee shall, on the death of the sole depositor or, as the case may be, on the death of all the depositors, become entitled to all the rights of the sole depositor or, as the case may be, of the depositors, in relation to such deposit to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner.

xxx xxx xxx xx

(emphasis added)

Section 45ZA(2) merely puts the nominee in the shoes of the depositor after his death and clothes him with the exclusive right to receive the money lying in the account. It gives him all the rights of the depositor so far as the depositor's account is concerned. But it by no stretch of imagination makes the nominee the owner of the money lying in the account. It needs to be remembered that the Banking Regulation Act is enacted to consolidate and amend the law relating to banking. It is in no way concerned with the question of succession. All the monies receivable by the nominee by virtue of section 45 ZA(2) would, therefore, form part of the estate of the deceased depositor and devolve according to the rule of succession to which the depositor may be governed.

We find that the High Court has rightly rejected the appellant's claim relying upon the decision of this Court in V.N. Khanchandani &

Anr. v. V.L. Khanchandani & Anr., (2000) 6 SCC

724. The provision under Section 6(1) of the Government Saving Certificate Act, 1959 is materially and substantially the same as the provision of Section 45ZA(2) of the Banking Regulation Act, 1949, and the decision in V.N. Khanchandani applies with full force to the facts of this case. 4

We find no merit in this appeal. It is, accordingly, dismissed.

.....J.
(AFTAB ALAM)

.....J.
(R.M. LODHA)

New Delhi,
October 06, 2010.

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ITEM NO.116 COURT NO.12 SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 1684 OF 2006

RAM CHANDER TALWAR & ANR. Appellant (s)

VERSUS

DEVENDER KUMAR TALWAR & ORS. Respondent(s)

Date: 06/10/2010 This Appeal was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE AFTAB ALAM
HON'BLE MR. JUSTICE R.M. LODHA

For Appellant(s) Mr. Swetank Shantanu, Adv.
Mr. Satyajit Patra, Adv.
Mr. Karan Chawla, Adv.
For Mr. Ajay Kumar Talesara,Adv.

For Respondent(s) Mr. Sanjay Goswami, Adv.
Mr. H.K. Balajee, Adv.
Mr. A.S. Bhasme,Adv.

Mr. Arvind Kumar Gupta ,Adv

UPON hearing counsel the Court made the following

O R D E R

The appeal is dismissed in terms of the signed reportable order.

(Neetu Khajuria)
Sr. P.A.

(S.S.R. Krishna)
Court Master

(Signed reportable order is placed on the file.)