

# **+ Test.Cas. 56/2021, I.A.11261/2021 ... vs State Govt Of Nct Delhi on 7 September, 2021**

**Author: Asha Menon**

**Bench: Asha Menon**

\$~Suppl. -20

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ TEST.CAS. 56/2021, I.A.11261/2021 (by the applicants/petitioners under Section 151 of CPC, for clarification/modification of order dated 24.08.2021)

UPASANA WAHI AND ORS ..... Petitioners  
Through: Mr. Ajay Verma, Sr. Advocate  
with Ms. Shweta Bharti, Mr.  
Shantanu Malik, Mr. Ishaan  
Verma, Ms. Diviani K Verma and  
Ms. Mitansha Chopra, Advocates

versus

STATE GOVT OF NCT DELHI .....  
Through: None

CORAM:  
HON'BLE MS. JUSTICE ASHA MENON

ORDER

% 07.09.2021

[VIA VIDEO CONFERENCING]

I.A.11261/2021 (by the applicants/petitioners under Section 151 of CPC for clarification/modification of order dated 24.08.2021)

1. The present application has been filed by the applicants/petitioners under Section 151 of CPC for clarification/modification of the order dated 24th August, 2021.

2. Mr. Ajay Verma, learned senior counsel appearing on behalf of the applicants/petitioners submitted that the application under consideration of the Court on 24th August, 2021 was I.A.10602/2021, which the applicants/petitioners had filed under Section 151 CPC with the following prayers: -

"(i) take up the hearing of the pending I.A. bearing no.

8974 of 2021 filed in the captioned Petition and pass appropriate orders/directions in the same including:

a. direct status quo needs to maintained with respect to the estate of the Testator mentioned in Schedule I during the pendency of the captioned petition; and b. direct the nominee, Mr. R.K. Sharma, to either not claim the amounts of the bank accounts/investments of the deceased Testator in respect of which he is the nominee, or if the same are released to him then to deposit the same in this Hon'ble Court subject to the orders of this Hon'ble Court;

(ii) Pass any other or further orders, which this Hon'ble Court may deem fit and proper in the interest of justice."

3. Learned senior counsel submitted that by inadvertence, this Court had not protected the investments which the deceased testator had made, while directing the following:-

"6. In view of the observations of this court in Shri Kulbir Singh (supra), relying upon the judgment of the Calcutta High Court in Atula Bala Dasi & Others v. Nirupama Devi & Another 1951 SCC OnLine Cal 40 and the decision of the Supreme Court in Manohar Lal Chopra v. Rai Bahadur Rao Raja Seth Hiralal, AIR 1962 SC 527 and holding that this court can grant injunction while exercising its inherent powers even in a probate case in order to prevent the property from being wasted, dissipated or frittered away or destroyed, till the next date of hearing, the Axis Bank and the ICICI Bank are directed not to release the amounts lying in the savings bank accounts numbers viz. Savings A/c No.040010100198011 (with Axis Bank), Savings A/c No.015401501955 (with ICICI Bank) and the DEMAT A/c No.IN304295-24239395, to any person till further orders of this court."

4. Learned senior counsel submitted that the applicants/petitioners had learnt that the said Sh. R.K. Sharma, had encashed and transferred to himself a sum of almost Rs.2,33,15,184.14/- comprising of various investments which the deceased had made. Learned senior counsel submitted that these investments were in the nature of mutual funds and the Fund Manager had declined to stop payment to Sh. R.K. Sharma, as there were no orders of the court. Furthermore, full and complete details were also not being revealed to the applicants/petitioners.

5. The amounts already released to the said Sh. R.K. Sharma, are listed in Table No. I to this application. Table No. II are those mutual funds that have been transferred to Sh. R.K. Sharma, as nominee, but apparently have not been redeemed. The Table No. III are again mutual funds that have been transferred to Sh. R.K. Sharma, despite nominee status being not clear. Thus, the learned senior counsel submitted that orders be now passed on the present application by clarifying/modifying the order dated 24th August, 2021 passed in I.A.10602/2021 to direct all investments/ mutual funds/agencies, with whom the deceased testator had invested, to maintain

status quo with respect to the funds/investments and not to redeem/transfer/transmit to Sh. R.K. Sharma or any person, any investment of the said deceased testator without the orders of the court. The learned senior counsel further submitted that the said Sh. R.K. Sharma be also directed not to claim any such amounts of the bank accounts/investments and to deposit in the court by way of FD, all such funds and investments already received. Further directions on similar lines, as in I.A.10602/2021 have been repeated.

6. On a perusal of the instant application, it is more than evident that this is a fresh application seeking interim relief on the basis of subsequent information received by the applicants/petitioners. Para No.7 of the instant application is clear that all the details mentioned in para No.9 in the form of the three tables had been received subsequent to the order dated 24th August, 2021. As such, this Court finds no ground to clarify the order dated 24th August, 2021.

7. As regards modification to issue directions to Sh. R.K. Sharma to deposit whatever has been redeemed by him, in court, this is the very relief sought in the previous application on consideration of which, this Court found it appropriate to issue the directions it has i.e., to main status quo with regard to the bank accounts into which, it was then submitted, that amounts in the DEMAT accounts have been transferred. The Banks, namely, the Axis Bank and the ICICI Bank, were directed not to release the amounts lying in the savings bank accounts specified in the said order and in the DEMAT account, to any person, till further orders of this court.

8. If the amounts invested have been redeemed and transferred into these accounts, they are automatically protected as no release is possible without the orders of the court. It is clear from the Tables that the transfer has already occurred and it is only a question of redemption. Therefore, at this stage, no further orders are required to be issued, even if this application was to be treated as a fresh application for interim relief.

9. Issue notice of this application to the respondent as also to Sh. R.K. Sharma, the nominee, by all permissible modes, returnable on 25th October, 2021 i.e., the date already fixed.

10. The order be uploaded on the website forthwith.

ASHA MENON, J SEPTEMBER 07, 2021 Pkb/s