

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
ORIGINAL SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

APD 2 of 2025

With

CS 191 of 2012

Citi Bank N.A.

Vs.

Jyotirmoy Pal Chaudhuri and Another

With

APD 8 of 2024

Smt. Sonali Majumder

Vs

Jyotirmoy Pal Chaudhuri and Another

With

OCO 1 of 2025

Citi Bank N.A.

Vs

Jyotirmoy Pal Chaudhuri and Another

For the appellant : Mr. Aniruddha Mitra, Sr. Adv.
in *APD 8 of 2024* : Mr. S. Sengupta, Adv.

For the appellant : Mr. Aniruddha Chatterjee, Sr. Adv.
Citi Bank N.A. : Mr. Arif Ali, Adv.
: Mr. Prabhat Kr. Srivastava, Adv.
: Ms. Ankita Singh, Adv.

For the respondent/ : Mr. Utpal Bose, Sr. Adv.
plaintiff : Ms. Hashnuhana Chakraborty, Adv.
Mr. Subhransu Ganguly, Adv.

Hearing concluded on : 18.05.2026

Reserved on : 18.05.2026

Judgment on : 03.07.2026

Md. Shabbar Rashidi, J.:-

1. The two appeals and the Cross Objection are taken up for analogous consideration as they have emanated out of a common judgment and decree dated April 25, 2024 passed in CS No. 191 of 2012. Since there are appeals on both sides and a cross objection, we would refer the parties as they stand designated in CS 191 of 2012 for the sake of convenience.

2. By the impugned judgment and decree, CS 191 of 2012 was disposed of by the learned Single Judge directing defendant No. 2, Sonali Majumdar, to pay to the plaintiff, a sum of ₹25,29,156.85/- with interest. The impugned judgment and decree also directed defendant No.1 the City Bank N.A. to pay a cost of ₹1,00,000/- to the plaintiff in the suit. The learned Single Judge passed the impugned judgment and decree to the following terms:

“23. In the present case, this Court finds that the defendant no. 1 without taking due care and caution has released the amount of Rs. 25, 29, 156.85/- in favour of the defendant no. 2 and the defendant no. 2 having knowledge that the plaintiff

had filed an application for grant of Succession Certificate in which the present savings account was also one of the subject-matter of the said case but the defendant no. 2 had suppressed the same and received the amount from the bank. The Learned Court of District Delegate at Alipore granted Succession Certificate in favour of the plaintiff, thus the defendant no.2 is liable to pay the amount of Rs. 25, 29,156.85/- to the plaintiff along with interest @ 10% per annum from the month of November, 2009 till the realisation of the total amount.

24. The defendant no. 1 has not taken due care and caution and released the amount in favour of the defendant no. 2 knowing that the application form submitted by the defendant no. 2 was incomplete and had not submitted required documents due to which the plaintiff is compelled to file this suit for recovery of money and thus this Court imposed cost of Rs. 1, 00,000/- upon the defendant no. 1.

25. The defendant no.2 is directed to pay the amount of Rs. 25, 29,156.85/- along with interest @ 10% per annum from the month of November, 2009 till the payment of the total amount to the plaintiff. The defendant no. 1 directed to pay cost of Rs. 1, 00,000/- to the plaintiff within four weeks from the date of receipt of this judgment failing which the amount shall carry interest at the rate of 10% per annum till the payment is made.”

3. The learned senior advocate for defendant No. 2 contended that learned Trial Judge misinterpreted the provisions of the Hindu Succession Act, 1956 in so far as the learned Single Judge made distinction between the properties inherited by a Hindu female from her father and that left behind by such Hindu female at the time of

her death which was sale proceeds of the properties inherited by a female Hindu from her father. It was also contended that learned Single Judge failed to appreciate that source of inheritance was of essential importance to determine the future flow of succession rather than the nature of the property. Learned advocate for defendant No. 2 further submitted that such distinction was made by the learned Single Judge on his own without being pleaded or argued.

4. The learned senior advocate for defendant No. 2 further contended that the learned Single judge failed to appreciate that the nature and character of the properties inherited by the deceased account holder Shyamali Pal Chowdhury did not change on sale, as the sale proceeds were not mixed up with any other type of properties to create a different asset. It was also argued that the learned Single Judge was not justified in holding that once the identity of the property inherited by a female Hindu from her father is changed, altered or substituted, the special rule enunciated under Section 15 (2) of the Act of 1956 has no manner of application.

5. The learned advocate for defendant No. 2 further submitted that the learned Single Judge failed to appreciate that the money lying with Citi Bank belonged to Late Mrinmoy Pal Chowdhury which, on his death, was inherited by Shyamali Pal Chowdhury. It was also submitted that the learned Trial Judge failed to consider that the bank account was opened by Shyamali Pal Chowdhury in her own

name. She was never accompanied by the plaintiff and Mrinmoy Pal Chowdhury at the time of opening the account. At the same time, learned Single Judge did not consider that there was no evidence on record that the money lying in Citi Bank was inherited by Shyamali Pal Choudhury from Late Mrinmoy Pal Chowdhury and that grant of Succession Certificate in favour of the plaintiff did not confer title over the properties mentioned in the Affidavit of Assets in the testamentary proceeding. It was also contended that in terms of the provisions of Section 45ZA of the Banking Regulation Act, 1949, defendant No. 1, Citi Bank was under obligation to release the money lying in the account of Shyamali Pal Choudhury, to its nominee irrespective of the rights of any person interested therein or any claim they have against the nominee.

6. The learned senior advocate for defendant No. 2 further contended that the learned Single Judge did not appreciate that the oral testimony of defendant No. 2, to the effect that the money lying to the credit of Shyamali Pal Choudhury was sale proceeds of the properties she inherited from her father, went uncontroverted whereas, it was admitted by the plaintiff that defendant No. 2 was the nominee of Shyamali Pal Choudhury in respect of the subject bank account. It was also submitted that learned Single Judge came to an erroneous finding that defendant No. 2 failed to prove that the money

lying in the subject bank account of Shyamali Pal Choudhury was sale proceeds of the properties inherited by her from her father.

7. The learned senior advocate for defendant No. 1 Citi Bank contended that the learned Single Judge failed to appreciate the true purport of Section 45ZA of the Banking Regulation Act, 1949 and erroneously directed defendant No. 1 to pay ₹1,00,000/- to the plaintiff. By releasing funds in favour of defendant No. 2, the bank was divested of all its liabilities in respect of the subject account. It was also argued that the learned Single Judge failed to appreciate that the bank was under legal obligation to release the amount in favour of the defendant No. 2, the nominee, in absence of any order of stay etc. The pendency of Succession Certificate proceeding was absolutely irrelevant as the bank was under statutory obligation to release the money in favour of a nominee. It was submitted by learned senior advocate for defendant No. 1 that the learned Single Judge erred in holding that defendant No. 1 ought not have released the money pending Succession Certificate proceeding. In terms of the Master Circular, defendant No.1 was not under any obligation to wait for the outcome of the Succession Certificate proceeding.

8. The learned senior advocate for defendant No. 1 Citi Bank further contended that the learned Single Judge failed to appreciate that there was no privity of contract between the plaintiff and the Citi Bank. It rightfully released the money in favour of defendant No. 2 in

terms of the extant provisions of law and regulations. According to learned senior advocate for defendant No. 1, the learned Single Judge erred in not considering that the plaintiff could only have a cause of action against defendant No. 2, who received the amount lying to the credit of Shyamali Pal Choudhury in trust for its rightful claimants. There was no cause of action as against defendant No. 1, who was merely acting and discharging its legal obligations.

9. The learned senior advocate for defendant No. 1, Citi Bank, further submitted that defendant No. 1, the Citi Bank was neither necessary nor proper party to the suit and the suit was liable to be dismissed with costs as against defendant No. 1. It was also contended that the learned Trial Judge erred in holding that defendant No. 1 did not take due care and caution in releasing the money to defendant no. 2 in consideration of the claim application form submitted by her. The learned Single Judge erred in holding that the claim application form was not properly filled up and was not supported by essential documents. Filling up of the form by defendant no. 2, purportedly, at the instructions of defendant no. 1 was not sufficient to hold that defendant no. 1 was acting in connivance with defendant no. 2. It was contended that the learned Single Judge misconstrued the provisions of Section 45ZA of the Banking Regulation Act, 1949.

10. On the contrary, learned senior advocate for the plaintiff submitted that the plaintiff is a legal heir and successor of deceased Shyamali Pal Chowdhury, in terms of the provisions of the Hindu Succession Act, 1956. It was also contended that notwithstanding defendant no. 2 had been contesting the Succession Certificate proceeding filed an incomplete claim application with incomplete information. Defendant no. 1, being a banker, did not take due care and caution in respect of the money lying to the credit of the deceased enjoined upon them in terms of the provisions of Banking Regulation Act, 1949 as well as Master Circular. In fact, defendant no. 1 connived together with defendant no. 2 and illegally released the money in favour of defendant no. 2 inspite of the knowledge of pendency of Succession Certificate proceeding.

11. According to learned advocate for the plaintiff, defendant no. 2 is liable to make over the amount to the legal heir and successors of the deceased. It was also contended that defendant no. 1, Citi Bank is jointly and severally liable for the release of money to defendant no. 2 in violation of the provisions of Banking Regulation Act, 1949 and Master Circular issued by the Reserve Bank of India. The learned senior advocate for the plaintiff stood by the impugned judgment and decree in so far as it directs defendant no. 2 to pay the due amount to the plaintiff as legal heir and successor of the deceased.

12. The plaintiff filed CS 191 of 2012 seeking recovery of a sum of ₹25,29,156.85/- against the defendants together with interest. According to the case made out in the plaint, the plaintiff is one of six children of Sri Khagendra Pal Chaudhuri and Smt. Usha Pal Chaudhuri, both since deceased, the other siblings of the plaintiff were, Smt. Ranu Talukdar, daughter (since deceased), Smt. Bani Roy (daughter), Sri Chinmoy Pal Chaudhuri (Son), Sri Mrinmoy Pal Chaudhuri, since deceased (son), and Smt. Sima Paul (daughter). Smt. Ranu Talukdar, one of the sisters of the plaintiff died on September 4, 1996 and one of the brothers of the plaintiff, namely, Sri Mrinmoy Pal Chaudhuri died on November 16, 2006. The wife of Sri Mrinmoy Pal Chaudhuri, since deceased, namely Smt. Shyamali Pal Chaudhuri also expired on July 26, 2008. Sri Mrinmoy Pal Chaudhuri and Shyamali Pal Chaudhuri (both deceased) died issueless.

13. Smt. Shyamali Pal Chaudhuri, since deceased died leaving behind several debts and securities. The plaintiff on behalf of his surviving brother and two surviving sisters as well as on his own behalf, had filed an application under Section 377 of the Indian Succession Act, 1925 before the Learned Court of District Delegate at Alipore, for grant of Succession Certificate with respect to the debts and securities i.e. several savings bank accounts, fixed deposits accounts and other accounts lying in the post office to the credit of

Smt. Shyamali Pal Chaudhuri (since deceased), wife of late Mrinmoy Pal Chaudhuri.

14. It was the further case of the plaintiff that on January 10, 2009, the plaintiff came across a letter issued by the defendant no. 1 to Smt. Shyamali Pal Chaudhuri, since deceased in respect of operation of the bank account of Smt. Shyamali Pal Chaudhuri maintained with defendant no. 1. Upon receipt of the such letter, the plaintiff informed the defendant no. 1 on March 13, 2009 that an application for grant of a Succession Certificate was filed by the plaintiff in respect of the debts and securities of Smt. Shyamali Pal Chaudhuri and appropriate directions for operation of bank account would be given to the defendant no. 1 by the plaintiff only after grant of Succession Certificate. On March 18, 2009, defendant no. 1 called upon the plaintiff to submit death certificate, relinquishment deed and other documents to defendant no. 1 so that the account of the Shyamali Pal Chaudhuri being Account No. 5308184333 could be closed and the amounts lying therein may be transferred to the plaintiff.

15. Consequently, a Succession Certificate was issued from the learned court of District Delegate at Alipore in favour of the plaintiff. The subject bank account of Smt. Shyamali Pal Chaudhuri with the defendant no. 1 was one of the subject-matters in the Succession Certificate proceeding. On receipt of the Succession Certificate, the

plaintiff approached the office of the defendant no. 1 whereupon the plaintiff was informed by the defendant no. 1 that the account of Smt. Shyamali Pal Chaudhuri, since deceased was closed and the proceeds thereof had already been handed over to defendant no. 2 sometime in the month of October, 2009, as the nominee of the said account. When the plaintiff came to know that the defendant no. 1 had already released the amount in favour of defendant no. 2, the plaintiff registered its objection to the acts of defendant no. 1 Citi Bank by submitting a letter on January 16, 2010 stating inter alia that defendant no. 1 had illegally and wrongfully released the said amount in favour of defendant no. 2 inspite of having knowledge of pendency of an application before the appropriate court of law for grant of Succession Certificate initiated at the behest of plaintiff in respect of the assets of late Shyamali Pal Chaudhuri. Having not received any consideration, the plaintiff filed the suit being CS 191 of 2012.

16. The suit was contested by defendant no. 1 by filing written statement denying the allegations made in the plaint. It was the positive case of defendant no. 1, Citi Bank that the amount lying at the credit of the deceased Shyamali Pal Chaudhuri was released by it in favour of defendant no. 2 who was the declared nominee in respect of the subject account. The money was validly released by defendant no. 1 in discharge of its obligation in terms of the provisions of Section 45ZA of the Banking Regulation Act, 1949 as well as Master Circular

on Customer Service in banks issued by the Reserve Bank of India. It was contended that there was no question of fraud or connivance on the part of defendant no. 1. It was submitted that since defendant no. 1, the Citi Bank was acting in discharge of its legal obligations, it cannot be held liable.

17. Defendant no. 2 also contested the CS 191 of 2012 by filing a separate written statement. Defendant no. 2 made out a case that the deceased Shyamali Pal Chaudhuri was her sister. She received the amounts lying deposited to the credit of her deceased sister in defendant no. 1 bank as nominee to the account. She further came up with a case, that late Shyamali Pal Chaudhuri sold out her properties from time to time, which she had inherited from her father and invested the sale proceeds in the subject account maintained with defendant no. 1. She further submitted that the plaintiff or any other person had no right and title over the said money. In fact, defendant no. 2, being own sister of late Shyamali Pal Chaudhuri inherited the said amount, in terms of the provisions of Section 15 (2)(a) of Hindu Succession Act, 1956, being sale proceeds of the properties inherited by the deceased from her father. She however admitted that an amount of ₹25,29,156.85/- was released by defendant no. 1 in her favour on October 24, 2009.

18. On the basis of the rival pleadings put in on behalf of the parties, the learned Trial Judge framed as many as 10 issues for proper adjudication of the disputes, that's to say: -

“1. Whether the plaintiff is entitled to the proceeds lying in the Savings Bank Account No. 5308184333 in the name of Smt. Shyamali Pal Chaudhuri, since deceased with Chowringee Branch of the Defendant No. 1 bank by virtue of and on the basis of the Succession Certificate granted by the learned 2 District Delegate at Alipore by the judgment and order dated December 21, 2009?

2. Whether the Defendant No. 1 ought to have disbursed the amounts lying in the Savings Bank Account No. 5308184333 in the name of Smt. Shyamali Pal Chaudhuri, since deceased with Chowringee Branch of the Defendant No. 1 bank to the plaintiff and not to the Defendant No. 2 ?

3. Whether the Defendant No. 2, as the nominee of Smt. Shyamali Pal Chaudhuri, since deceased and the account holder of Savings Bank Account No. 5308184333 with Chowringee Branch of the Defendant No. 1 bank is holding the money received by her from the Defendant No. 1 in trust for and on behalf of the plaintiff ?

4. Whether the Defendants No. 1 and 2 are jointly and/or severally liable to make payment of a sum of Rs.2529156.85 to the plaintiff ?

5. Whether the plaintiff is entitled to the reliefs as claimed in the plaint and/or any other reliefs?

6. Whether the Defendant No. 1 acted illegally and wrongfully and in violation of the mandate and Guidelines of the Reserve Bank of India in releasing the proceeds of Savings Bank Account No. 5308184333 in the name of Smt. Shyamali Pal Chaudhuri, since deceased with Chowringee Branch of the Defendant No. 1 bank in favour of the Defendant No. 2, the 3

nominee despite having notice of the pendency of proceedings of Successively Certificate?

7. Is the present suit bad for non-joinder of necessary parties being all the heirs of the deceased account holder, namely, Shyamali Pal Chaudhuri ?

8. Is there is any valid cause of action of the Plaintiff against the Defendant No. 1?

9. Whether the properties or sale proceeds thereof lying to the credit of S.B. A/c. No. 5308184333 with Citi Bank, Chowringhee Branch, were inherited by Late Shyamali Paul Chowdhury from her father during her life time?

10. Is the plaintiff entitled to a decree for Rs. 25,29,156.85 on the basis of the Succession Certificate issued by the Learned District Delegate at Alipore in Act 39 Case No.388 of 2008 (Succession) in the Goods of Late Shyamali Paul Chowdhury?"

19. All the issues appear to have been taken up by learned Single Judge together for adjudication. It is not in dispute that the amount involved in the present lis was lying in an account maintained with defendant no. 1, to the credit of deceased Shyamali Pal Chaudhuri. The said Shyamali Pal Chaudhuri was wife of deceased brother plaintiff namely Mrinimoy Pal Chowdhury. Defendant no. 2 is the sister of said deceased Shyamali Pal Chaudhuri and was a nominee in the subject account. In such capacity, defendant no. 2 received the amount lying to the credit of deceased in the subject account to the tune of ₹25,29,156.85/-. Admittedly, Mrinimoy Pal Chowdhury and Shyamali Pal Chaudhuri died issueless.

20. By filing CS 191 of 2012, the plaintiff claimed the said amount as legal heir and successor of late Shyamali Pal Chaudhuri in accordance with Section 15(1)(b) of Hindu Succession Act, 1956. However, defendant no. 2 claimed right over the said amount in terms of Section 15(2)(a) of the said Act, being heir of the father of the deceased. In order to appreciate the disputes between the parties, it would be apposite to set out Section 15 of Hindu Succession Act, 1956 which deals with the rule of succession in case of the properties belonging to a Hindu female. The provision reads as follows:

“15. General rules of succession in the case of female Hindus.—

(1) The property of a female Hindu dying intestate shall devolve according to the rules set out in section 16,—

(a) firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband;

(b) secondly, upon the heirs of the husband;

(c) thirdly, upon the mother and father;

(d) fourthly, upon the heirs of the father; and

(e) lastly, upon the heirs of the mother.

(2) Notwithstanding anything contained in sub-section (1),—

(a) any property inherited by a female Hindu from her father or mother shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the father; and

(b) any property inherited by a female Hindu from her husband or from her father-in-law shall devolve, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon the other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the husband.”

[Emphasis supplied]

21. The provisions of Section 14 of the Act of 1956 would also be relevant in the present lis and in fact, the learned Single Judge has dealt with such proposition. Section 14 of the Act lays down that,

“14. Property of a female Hindu to be her absolute property.—(1) Any property possessed by a female Hindu, whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner.

Explanation.— In this sub-section, “property” includes both movable and immovable property acquired by a female Hindu by inheritance or devise, or at a partition, or in lieu of maintenance or arrears of maintenance, or by gift from any person, whether a relative or not, before, at or after her marriage, or by her own skill or exertion, or by purchase or by prescription, or in any other manner whatsoever, and also any such property held by her as stridhana immediately before the commencement of this Act.

(2) Nothing contained in sub-section (1) shall apply to any property acquired by way of gift or under a will or any

other instrument or under a decree or order of a civil court or under an award where the terms of the gift, will or other instrument or the decree, order or award prescribe a restricted estate in such property.”

22. Since defendant no. 2 claimed the amount lying to the credit of her deceased sister on the ground that the same came out of the sale proceeds of the properties she inherited from her father. The learned Single Judge observed that once the nature of the property was changed to sale proceeds, it became absolute property of the deceased Shyamali Pal Chaudhuri and it cannot devolve upon the heirs of her father in terms of Section 15(2)(a) of the Act of 1956. The learned Single Judge held that,

“In the present case also it is the specific case of the defendant no. 2 that Shyamali Pal Chaudhuri, since deceased sold the properties inherited from her father and then the sale proceeds were deposited in the said account, though the defendant no. 2 has not proved her case but assuming the defendant no. 2 proved her case then also the property inherited by Shyamali Pal Chaudhuri, since deceased from her father becomes her absolute property and the Special Rule have no application.”

23. So far as the claim of defendant no. 2 over the amount lying in Account No. 5308184333 with defendant no. 1 bank to the credit of the deceased Shyamali Pal Chaudhuri is concerned, it was specific case of defendant no. 2 that the said amount came out of sale proceeds of the properties inherited by deceased from her father.

Therefore, in terms of Section 15(2)(a) of the Act of 1956, on the death of Shyamali Pal Chaudhuri, the said amount devolved upon defendant no. 2 being the heir of father of the deceased. On the contrary, the plaintiff claimed the amount having inherited the same from late Shyamali Pal Chaudhuri being the heirs of the husband of deceased in accordance with Section 15(1)(b) of Hindu Succession Act. Admittedly, Mrinmoy Pal Chowdhury and Shyamali Pal Chaudhuri died issueless.

24. The evidence led at the trial discloses that there was a Succession Certificate proceeding at the behest of plaintiff which was contested by defendant no. 2. It was noted by learned Single Judge, in the impugned judgment and decree that although, several amendments were taken out in the said proceeding in respect of several credits lying in different banks, but defendant no. 2 never claimed the amount lying in the subject account in such proceeding. Moreover, the learned court emphatically held in the impugned judgment and decree that defendant no. 2 failed to prove that the amount lying in the subject account came out of the sale proceeds of the properties inherited by Shyamali Pal Chaudhuri from her father. The description and identification of such properties have not been disclosed. The details of the purported sale of the properties have also not been divulged by defendant no. 2, in order to establish that the amount lying in the subject account is actually the sale proceeds of the properties inherited by the deceased.

25. As to the rights of the defendant no. 2 over the amount lying in the subject account, the learned Single Judge, in the impugned judgment and decree held that,

“13. In the present case, the defendant no. 2 tried to impress upon this Court that the defendant no. 2 is entitled to get the sum which was lying on the account of Shyamali Pal Chaudhuri, since deceased with the defendant no. 1 as per Section 15 (2)(a) of the Hindu Succession Act, 1956. The defendant no. 2 has not produced any document or brought any evidence on record to prove that the father of Shyamali Pal Chaudhuri, since deceased owned any properties or Shyamali Pal Chaudhuri, since deceased had sold the said properties and deposited the sale proceeds in the account maintained with the defendant no. 1. During the cross-examination, the defendant no. 2 admits that she has not submitted any document in support of her claim that the properties of her father had been sold and the proceeds deposited in the bank account. The defendant no. 2, during her examination, deposed that the flat no. 6, Jatin Bagchi Road had not been sold and was in her daughter’s name. From the said evidence of the defendant no. 2 regarding the sale of properties of her father by Shyamali Pal Chaudhuri, since deceased and deposited the sale proceeds in the bank account has not been proved. The defendant no. 2 failed to prove that the amount lying in bank account of Shyamali Pal Chaudhuri, since deceased, was inherited by her from her father.”

26. It has been noted by learned Trial Judge that once the properties inherited from father is sold out and sale proceeds is converted into money, the changed character of the properties makes

the same absolute properties of the female in terms of Section 14 of the Act of 1956. If that be so, the property of such female Hindu will devolve in accordance with Section 15(1)(b) of the Act of 1956. Such legal position was upheld by the court of learned District Delegate at Alipore in Act XXXIX Case No. 388 of 08 under Section 377 of Indian Succession Act, 1925, which issued Succession Certificate in favour of the plaintiff despite contest by defendant no. 2. The order passed by learned District Delegate at Alipore in such proceeding and consequent Succession Certificate (Exhibits 9 and 10) are still subsisting and has not been challenged. In such view of the facts, defendant no. 2 cannot claim any right over the amount lying in the subject account standing in the name of Shyamali Pal Chaudhuri.

27. So far as the role of defendant no. 1, Citi Bank is concerned, the plaintiff had come up with a definite case, that although, defendant no. 1 was duly informed of the pendency of Succession Certificate proceeding before the appropriate court, the bank illegally connived together with defendant no. 2 and proceeded to release the money in favour of defendant no. 2. The defendant no. 1 did not apply proper care and caution in dealing with the bank account as required of it in terms of the Banking Regulation Act 1949 as well as Master Circular on Customer Service in banks issued by the Reserve Bank of India. In response to such contention, the Citi Bank, defendant no.1 came up with a case that the bank was under legal obligation to settle

the account in favour of the designated nominee, in terms of Section 45ZA of Banking Regulation Act 1949 as well as Master Circular on Customer Service dated July 1, 2009. Defendant no. 1 discharged its obligation by releasing the money in favour of defendant no. 2 and therefore, there can be no claim against defendant no. 1. It simply discharged its legal obligations after observing all legal formalities in this regard and never acted in connivance with defendant no. 2. According to the case made out by defendant no. 1, pendency of proceeding for issuance of Succession Certificate is not at all relevant for the purpose of settlement of the account in terms of the provisions of Section 45 ZA of the Act of 1949 and the Master Circular.

28. The learned Trial Judge, noted in the impugned judgment and decree that,

“15. After came across a letter dated 10th January, 2009 of the defendant no.1, the plaintiff had informed the defendant no. 1 by a letter dated 13th March, 2009, that the plaintiff has initiated a case for grant of Succession Certificate with respect to the debts and securities of Shyamali Pal Chaudhuri, since deceased and appropriate directions for operation of the bank account would be provided to the defendant no.1 after issuance of Succession Certificate by the competent Court of law. On receipt of the said letter, the defendant no.1 by a letter dated 18th March, 2009, requested the plaintiff to provide death certificate, relinquishment deed etc. to the defendant no.1 so that the account of the deceased Shyamali Pal Chaudhuri could be closed and amounts can be transferred to the plaintiff. The plaintiff was granted

Succession Certificate by the Learned District Delegate, at Alipore and on receipt of the same, the plaintiff had approached the defendant no.1 for release of the amount available in the account of the deceased Shyamali Pal Chaudhuri but the defendant no.1 informed the plaintiff that the defendant no.1 has released the amount in favour of the defendant no.2 as she is the nominee of the deceased Shyamali Pal Chaudhuri in her account.”

29. The learned Single Judge noted the provisions of Clause 20.1.1 of Master Circular dated July 1, 2009 which is reproduced hereunder for proper appreciation. It reads as follows:

“20.1.1. In the case of deposit accounts where the depositor had utilized the nomination facility and made a valid nomination or where the account was opened with the survivorship clause (“either or survivor”, or “anyone or survivor”, or “former or survivor” or “latter or survivor”), the payment of the balance in the deposit account to the survivor(s)/nominee of a deceased deposit account holder represents a valid discharge of the bank’s liability provided:

(a) The bank has exercised due care and caution in establishing the identity of the survivor(s)/nominee and the fact of death of the account holder, through appropriate documentary evidence;

(b) There is no order from the competent court restraining the bank from making the payment from the account of the decease; and

(c) It has been made clear to the survivor(s)/nominee that he would be receiving the payment from the bank as a trustee of the legal heirs of the deceased depositor, i.e., such payment to him shall not affect the right or

claim which any person may have against the survivor(s)/nominee to whom the payment is made.”

30. Defendant no. 1 i.e. the Citi Bank made out a case that in releasing the amount in favour of defendant no. 2, it had acted in accordance with Section 45ZA of the Banking Regulation Act, 1949, which reads as follows, that’s to say:

“45ZA. Nomination for payment of depositors’ money.—(1) Where a deposit is held by a banking company to the credit of one or more persons, the depositor or, as the case may be, all the depositors together, may nominate, in the prescribed manner, one or more persons not exceeding four, either successively or simultaneously] to whom in the event of the death of the sole depositor or the death of all the depositors, the amount of deposit may be returned by the banking company.

(1A) Where the nomination is made successively in favour of more than one person under sub-section (1), the nomination shall be effective only in favour of one person in the order of priority specified in section 45ZG.

(1B) Where the nomination is made simultaneously in favour of more than one person under sub-section (1), the nomination shall be effective in favour of all such persons in proportion to which it is declared, and the following terms and conditions shall apply, namely:—

(a) the nomination shall not be made in favour of more than four persons;

(b) the nomination shall explicitly state the proportion of amount of deposit in percentage in favour of each nominee;

(c) the nomination shall be made in respect of the whole amount of deposit;

(d) if any nominee dies before receiving deposit from the banking company, the nomination in respect of such nominee alone shall become ineffective and the amount of deposit purported to be nominated in favour of deceased nominee shall be treated as if nomination had not been made in

respect of that portion of deposit, and any nomination which does not comply with any of the terms and conditions specified in clauses (a) to (c), shall be invalid, as if nomination had not been made by the depositor or all the depositors together, as the case may be.

(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 of 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.

(3) Where the nominee is a minor, it shall be lawful for the depositor making the nomination to appoint in the prescribed manner any person to receive the amount of deposit in the event of his death during the minority of the nominee.

(4) Payment by a banking company in accordance with the provisions of this section shall constitute a full discharge to the banking company of its liability in respect of the deposit:

Provided that nothing contained in this sub-section shall affect the right or claim which any person may have against the person to whom any payment is made under this section.”

31. Conceptually there are differences between succession within the meaning of the Indian Succession Act, 1925 or the law of succession in India on one point and a nomination contemplated under the Banking Regulation Act, 1949 and the Master Circular dated July 1, 2009 on the other part. A nominee holds the sum in trust and for and on behalf of the actual successor to the estate of the deceased. A successor to the estate of the deceased however takes the sum of the deceased in accordance with the law of succession governing the deceased. In a factual matrix, the nominee and the successor of the deceased may be the same. However, when, the nominee and the successor of the deceased are not the same person, then, the nominee holds the sum of the deceased as a trustee, for and on behalf of the successor. The nominee is under obligation to make over the sum of the deceased to the successor of the deceased.

32. Section 45ZA of the Act of 1949 provides a mechanism for a bank to make over the sum of the deceased to a nominee validly nominated by the account holder during his lifetime. It absolves the liability of the bank when the bank acts in accordance with the provisions of Section 45ZA of the Act of 1949 read with Clause 20.1.1 of the Master Circular dated July 1, 2009.

33. Neither Section 45ZA of the Banking Regulation Act, 1949 nor Clause 20.1.1 of the Master Circular dated July 1, 2009 lays down or regulates the succession of the estate of the deceased. They merely

facilitate making over portion of the estate of the deceased lying with the bank to a person who is validly nominated by the deceased during his lifetime. Once a bank discharges its responsibility in terms of Section 45ZA read with the Clause 20.1.1 of the Master Circular dated July 1, 2009 then the bank stands absolved of its responsibility and liability. However, in a given case where the bank in the know of succession disputes with regard to the estate of the deceased proceeds to make over the credit balance in the bank account of the deceased to the nominee, whose nomination is also doubtful, then, in that given factual matrix, the banker may be held responsible for not discharging due care.

34. Section 45ZA of the Act of 1949 and Clause 20.1.1 of the Master Circular dated July 1, 2009 have not substituted the Law of Succession in India. It has however modulated the relationship between a banker and its constituent vis-à-vis the nominee of the constituent.

35. The learned Single Judge took note of the claim application filed on behalf of defendant no. 2 and noted that defendant no. 1, the bank, did ignore the various column in such application being left blank. It was held by learned Single Judge that defendant no. 1 bank did not consider that several information required for releasing the money were not provided by defendant no. 2 in her claim application. Nevertheless, the bank proceeded to release the amount lying in the

subject bank in favour of defendant no. 2 on the basis of incomplete information. Accordingly, the learned Trial Judge came to a conclusion that defendant no. 1 bank was not diligent and acted without proper care and caution in releasing the amount, as required of it in terms of the provisions of Section 45ZA of the Act of 1949 coupled with the Master Circular issued by Reserve Bank of India.

36. In consideration of the claim application submitted by defendant no. 2 with defendant no. 1, vis-à-vis the provisions of the Master Circular dated July 1, 2009, the learned Single Judge observed that,

“As per Clause 20.1.1(a) of the above Circular, the bank has to exercise due care and caution in establishing the identity of the survivor(s)/nominee and the fact of the death of the account holder, through appropriate documentary evidence. But in the present case, on careful examination of the claim form submitted by the defendant no. 2 for release of the debts of the deceased as nominee, the said claim form i.e. Exhibit-14 has not been verified by the bank with due care and caution as in the form Clauses 2, 3, 6, 8 and 9 have not been filled up properly and no details of the other legal heirs/successors of the deceased was provided no indemnity bond of the legal heirs have been submitted and inspite of the said discrepancies in the form, the bank has accepted and release the amount even both the defendants had the knowledge that a case is pending before the appropriate court of law for grant of Succession Certificate in which the particular account was also the subject-matter of the said case.

20. The defendant no. 1 as well as the defendant no. 2 were well aware about the pendency of the case for grant of Succession Certificate before the Learned District Delegate at

Alipore as by a letter dated 13th March, 2009, the plaintiff had informed about the pendency of the case for grant of Succession Certificate to the defendant no. 1 and the defendant no. 2 was the party to the said case as the defendant no. 2 had participated in the said proceedings, but inspite of the same, the defendant no. 1 in connivance of the defendant no. 2 had released the amount without waiting the outcome of the application filed by the plaintiff for grant of Succession Certificate.

21. The defendant no. 1 had not adduced any evidence in support of his case. Considering the above facts, the Court finds that there was connivance in between the defendant no. 1 and defendant no. 2 for releasing of the amount in favour of the defendant no. 1 in violation of the Master Circular as well as after knowing fully well that a case for grant of Succession Certificate is pending.”

33. Learned Trial Judge also noted the demeanour of defendant no. 2 in the impugned judgment and decree to the following effect,

“17. The defendant no. 1 without taking due care and caution knowing that the form submitted by the defendant no. 2 for release of the amount is not filled up properly and not enclosed the required documents but has released the said amount. During the cross-examination, answer to the question No. 90, the defendant no. 2 stated that the application form was filled up by her as per the instructions of the bank. In answer to the question No. 92, the defendant no. 2 stated that the application form was filled up by her husband and she does not know anything about the same. In answer to the question No. 93, the defendant no. 2 stated that she went to the bank with her husband and as per the instruction of the bank her husband filled up the form and she put the signature on the form.”

32. Therefore, from the perusal of the evidence let at the trial, it transpires that defendant No. 1 went on to release the amount lying in the subject account to the credit of deceased Shyamali Pal Chaudhuri without taking due care and caution as required of it in terms of the provisions contained under Section 45ZA of the Act of 1949 as well as the master circular dated July 1, 2009. Not only that defendant No. 1 released the amount with full knowledge of the fact that a proceeding under Section 377 of Indian Succession Act, 1925 being Act XIII case No. 388 of 2008 was pending. In the said proceeding, defendant No. 2 was a contesting defendant. In the impugned order, it was noted by learned Trial Judge that by a letter dated March 13, 2009, the plaintiff had informed defendant No. 1 about the pendency of the case for grant of succession certificate. However, inspite of such communication by the plaintiff, defendant No. 1 bank released the amount in favour of defendant No. 2 who was a contesting defendant in the succession certificate proceeding without waiting for the outcome of the said proceeding. In consideration of the aforesaid evidence, learned Trial Judge concluded that there was a connivance in between defendant No. 1 bank and defendant No. 2 to release the amount in favour of defendant No. 2 in violation of the master circular.

33. Since we have already noted hereinbefore that the claim of defendant No. 2 that she is the legal heir and successor of deceased Shyamali Pal Chaudhuri and was entitled to receive the amount lying to the credit of the deceased in the subject account revised by learned District Delegate at Alipore in the succession certificate proceeding. We also note that such order of the learned District Delegate is still subsisting and has not been challenged. The learned Trial Judge, on the basis of evidence brought on record, held the plaintiff to be entitled to succeed to the assets and liabilities of the deceased Shyamali Paul Choudhury in terms of the provisions contained in Section 15(1)(b) of Hindu Succession Act, 1956 and directed defendant No. 2 to pay and deliver the amount of ₹25,29,156.58/- to the plaintiff with interest at the rate of 10 percent per annum calculated from the month of November 2009 till realisation in full. We find no reason to interfere with such finding of the learned Trial Judge.

34. So far as the liability of defendant No. 1, Citi Bank is concerned, learned Trial Judge held that defendant No. 1 bank acted in violation of the provisions of Section 45ZA of the Act of 1949 as well as the Master Circular on Customer Services dated July 1, 2009, issued by the Reserve Bank of India. The learned Single Judge held that inspite of having knowledge of the pendency of succession certificate proceeding, defendant No. 1 acted in connivance with defendant No. 2 in realising the amount without observing the proper

care and caution as required of it. The learned Trial Judge, taking into consideration the aforesaid circumstances as discussed above, awarded a cost of ₹1,00,000/- upon defendant No. 1 to be paid to the plaintiff. Taking stock of the facts and circumstances obtaining in the case coupled with the conduct of defendant No. 1 in not observing due care and caution in respect of realising the amount in favour of defendant No. 2, as statutorily required of it, we are of the opinion that there are sufficient materials on record to concur with the learned Single Judge that defendant No. 1 acted in connivance with defendant No. 2. For such reason, the liability of defendant No. 1 i.e. Citi Bank is jointly and severally liable to pay the plaintiff the full decretal amount of ₹25,29,156.58/- together with the interest of such amount at the rate of 10 percent per annum calculated from the month of November 2010 till realisation in full. Needless to say, defendant No. 1, on making payment of such amount to the plaintiff, would be entitled to release the amount paid by it from defendant No. 2 in accordance with law. Since, we have held that defendant No. 1, bank, to be jointly and severally liable, the cost awarded by the learned Trial Judge need not be paid.

32. With the modifications made in the impugned judgment and decree, as indicated above, the appeals being APD 2 of 2025, APD 8 of 2024 and cross objection being OCO 1 of 2025 are disposed of. Connected applications, if any, shall also stand disposed of.

33. Urgent photostat certified copy of this judgment, if applied for, be supplied to the parties on priority basis upon compliance of all formalities.

[MD. SHABBAR RASHIDI, J.]

34. I agree.

[DEBANGSU BASAK, J.]