

## **THE SURVIVING JOINT ACCOUNT HOLDER OF A JOINT BANK ACCOUNT IS ACCOUNTABLE TO THE LEGAL HEIRS OF THE DECEASED FIRST HOLDER UNLESS OTHERWISE ESTABLISHED**

### **INTRODUCTION:**

*The Delhi High Court in its recent decision in **Prabha Bennett v. Rohit Sharma & Anr.**<sup>1</sup>, reiterated the stand that in a joint bank account, following the death of the first account holder, the subsequent joint holder would be authorized to withdraw the amounts but would be accountable to the heirs of the first holder when the circumstances do not establish the intention of the first holder to make the surviving joint holder the exclusive owner.*

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### **FACTS:**

One late Sh. Vijay Kumar Sharma, the father of the plaintiffs and the defendants, expired on 10<sup>th</sup> September, 2008. The parties to the suit are based in the United Kingdom.

In December 2018, the plaintiffs discovered that the defendants had taken control and withdrawn money from the bank accounts of Late Sh. Vijay Kumar Sharma ("**said accounts**") maintained in Delhi. In January 2019, certain text messages were exchanged between the plaintiff no. 1 and the defendants wherein the plaintiffs were assured that their respective shares would be given when requested.

Upon the failure of the defendants to give the plaintiffs their share, the plaintiffs' solicitors on November 2019 addressed a communication to the defendants. On 14<sup>th</sup> November, 2019, the defendants' solicitors replied to the aforesaid communication stating that the defendant no. 1 was added as a joint account holder in the said accounts by Late Sh. Vijay Kumar Sharma on 4<sup>th</sup> August, 2007. The reply further stated that the intention of the deceased was that defendant

no. 1 would be solely entitled to the money in the said accounts. In addition, in a further communication, the defendants alleged that the plaintiffs' claim was time barred.

In view of the above, the plaintiffs filed a suit praying *inter alia* for a decree of mandatory injunction, directing the defendants for sharing complete information concerning the said accounts including details of the amounts withdrawn by the defendants and copies of bank statements.

On 9<sup>th</sup> March, 2021, the summons in the suit was issued and on 30<sup>th</sup> May, 2022 the defendants' right to file written statement had lapsed. On 26<sup>th</sup> July, 2022, when the matter came up for hearing, the defendants were proceeded against *ex parte*, since none had appeared on their behalf.

Hence, an application seeking a judgment under provisions of Order VIII Rule 10 of the Civil Procedure Code, 1908 ("**CPC**") was filed on behalf of the plaintiffs against the defendants.

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<sup>1</sup> 2022 SCC OnLine Del 2761.

**ISSUES FOR CONSIDERATION:**

The main issue before the Court was:

Whether the surviving joint holder of the joint account retains exclusive ownership over the amounts in the said accounts, when the first holder had died intestate?

**SUBMISSIONS ON BEHALF OF THE PLAINTIFF:**

The plaintiff submitted that the claim under the present suit was not time barred, and submitted that the money in the said accounts belonged to Late Sh. Vijay Kumar Sharma who died intestate. In view of the same, therefore, the plaintiffs contended that all his legal heirs would be eligible to inherit the same under the Hindu Succession Act, 1956 and the defendants alone cannot take exclusive ownership over the money in the said accounts.

**JUDGMENT:**

The Delhi High Court referred to the judgment of the Apex Court in *Indranarayan v. Roop Narayan*,<sup>2</sup> wherein it had held that in a joint account the onus lies with the subsequently added holder to prove that the intention of the first holder was to after his death make the subsequent holder, the exclusive owner of amounts in the account. The Apex Court noted that therefore, there exists no presumption of an intended advancement and proving the intention of the sole account/ deposit holder is pivotal to claim exclusive ownership of the amounts.

The High Court also observed that the above judgment of the Supreme Court had been followed by a Coordinate Bench of the Delhi High Court in *Prabha Kaul v. Chandra Kaul Muthoo*.<sup>3</sup> Relying on the judgments of the Privy Council in *Guran Ditta v. T. Ram Ditta*,<sup>4</sup> and *Pandit Shambhu Nath Shivpuri v. Pandit Pushkar Nath*,<sup>5</sup> it was held in *Prabha Kaul* (supra) that in a joint bank account, wherein the amount is payable to either of the survivors, if the facts and circumstances do not establish the intention of the first holder to make the survivor on his death the sole owner of the amounts lying in the account then in such case the joint account holder would be authorised to withdraw the amounts but would be accountable to the heirs of the first holder.

Since there exists no presumption as to the exclusive ownership of the money in the said accounts and given that the defendants had failed to file written statements and rebut the averments made in the plaint, the High Court on facts noted that the defendants were merely added as joint account holders. In line with the law expounded by the Apex Court, the High Court observed that while the defendants were entitled to withdraw amounts from the said accounts, they cannot claim to have the exclusive right over the money in the said accounts. This view is fortified by the fact that the father of the parties died intestate and the amounts in the said accounts would be governed by the Hindu Succession Act, 1956 which in turn vests with the Class I legal heirs of Late Sh. Vijay Kumar Sharma, i.e., the plaintiffs as well as the defendants.

The Court further noted the contrary stand taken by the defendants in their communications sent

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<sup>2</sup> (1971) 2 SCC 438.

<sup>3</sup> 2013 SCC OnLine Del 3027.

<sup>4</sup> AIR 1928 PC 172.

<sup>5</sup> AIR 1945 PC 10.

by the solicitors and the text messages exchanged between the parties where the defendants admitted to the share of the plaintiffs of the amounts in the said account. Further, on limitation, in light of admission made by the defendants, the High Court observed that it cannot be said that the suit was time barred as the plaintiffs became aware of the said accounts only in December, 2018.

In view of the above facts and circumstances, the High Court held that the plaintiffs were entitled to a judgment and decree in terms of Order VIII Rule 10 of the CPC.

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*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.*