

HIGH COURT OF TRIPURA
AGARTALA
MFA 2 OF 2024

1. **Smti. Mina Rani Debnath**, w/o Lt. Priyalal Debnath,
Vill + P.O. Gakulnagar, P.S. Bishalgarh, Sepahijala Tripura.
2. **Smti. Papri Debnath**, d/o Lt. Priyalal Debnath,
Vill + P.O. Gakulnagar, P.S. Bishalgarh, Sepahijala Tripura.
3. **Smti. Joysree Debnath**, d/o Lt. Priyalal Debnath,
Vill + P.O. Gakulnagar, P.S. Bishalgarh, Sepahijala Tripura.

..... **Appellants.**

Vs.

1. **Tripura Gramin Bank**, having its head office at Abhoynagar,
Agartala, District-West Tripura (represented by its Chairman).
2. **The Branch Manager**, Tripura Gramin Bank, Madhupur Branch,
having his office at P.O. Madhupur, District Sepahijala.
3. **Smti. Mira Das**, w/o Lt. Bibhash Das of Village and P.O. Gakulnagar,
P.S. Bishalgarh, District Sepahijala, Tripura.

.... **Respondents.**

For the petitioner/ : Mr. Samar Das, Advocate.
applicant (s)

For the respondent (s) : Mr. A. Roy Barman, Advocate.

HON'BLE MR. JUSTICE ARINDAM LODH

06.08.2024

Order

This is an appeal under Section 384 of the Indian Succession Act against the judgment and order dated 30.03.2024 passed in case no. Succession 01 of 2022 by the learned District Judge, Sepahijala District, Sonamura whereby and whereunder learned District Judge rejected the prayer of the petitioner/appellants on the ground that the petition filed by the petitioners/appellants is not maintainable.

Heard Mr. Samar Das, learned counsel appearing for the appellants. Also heard Mr. A. Roy Barman, learned counsel appearing for the Respondents-Tripura Gramin Bank.

The fact, in short, is that the petitioners/appellants have filed an application before the learned District Judge, Sepahijala District Sonamura for granting Succession Certificate due to the death of one Priyalal Debnath, who was the husband of the appellant no.1 and father of the appellants no. 2 and 3. It is pleaded that during the life time of late Priyalal Debnath he deposited certain amount of Rs.12,52,127.59/- in the Savings bank account of the Tripura Gramin Bank, Madhupur Branch. In the said account, the name of the nominee was found to be one Smt. Mira Das, the respondent no.3 herein. While the matter was being dealt with by learned District Judge, Sepahijala District, Sonamura it was held that the application for granting Succession Certificate filed by the petitioners/appellants was not maintainable for the reason that a suit bearing no. TS 142/2016 seeking declaration that the petitioner no.1 i.e. the appellant no.1 herein, is the legally married wife of late Priyalal Debnath and the respondent no.3 i.e. Smt. Mira Das had no relation with late Priyalal Debnath and that suit is still pending before the Court of learned Civil Judge, Sr. Division, Court No.1, Agartala, West Tripura at the time of passing of the order dated 30.03.2024. Having found this, learned District Judge, held that the petition for granting Succession Certificate was immature and accordingly rejected the petition. Hence, such rejection of the petition for granting Succession Certificate is under challenge before this Court.

Mr. Das, learned counsel appearing for the appellants submits that it is true that a suit for declaration filed by the petitioners/appellants has been pending before the court of learned District Judge, Sr. Division, Agartala, West Tripura and it has not been finally disposed of till today.

Having perused the order dated 30.03.2024, in the opinion of this Court, the learned District Judge ought not to have rejected the petition for granting Succession Certificate on that ground. At best, the petition for granting Succession Certificate would be considered as *res sub judice* and Section 10 of CPC could have been invoked. Under Section 10 of CPC, the petition for granting Succession Certificate, being a subsequent suit, could have been stayed. Here, the subjects in dispute between the parties are directly and substantially in issue in the previously instituted suit. Learned District Judge has committed an error of law in rejecting/dismissing the petition for granting Succession Certificate.

In view of this, the matter is remitted back to the Court of learned District Judge, Sepahijala District, Sonamura District for its revival. Learned District Judge shall notify the next date to the parties for appearance and after hearing the parties and considering the status of the case No.TS 142/2016, shall pass necessary order applying the doctrine of *res sub judice* and the provision as laid down under Section 10 of CPC. After final disposal of the case i.e. TS 142/2016, the instant matter shall be heard for granting Succession Certificate. In the meantime, the respondents-bank shall not release any amount in favour of any persons till final decision of the suits and the petition for granting Succession Certificate.

With the aforesaid direction, the appeal stands disposed of. Consequently, the connected IA also stands disposed.

JUDGE



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