

Party Name : SEKHAR BANIK Vs RATAN KR. BANIK & ORS

HONBLE THE CHIEF JUSTICE DEEPAK GUPTA THE HONBLE MR. JUSTICE S.C.DAS

This is a rather unusual case. The original suit was filed by Arun Bala Banik against her three sons and one son-in-law and the allegation in the suit was that the son-in-law had fraudulently obtained power of attorney from her and used that power of attorney to execute a fraudulent sale deed in favour of the three sons. Arun Bala Banik has since died and this application has been filed by Sekhar Banik who is another son and it is claimed that Arun Bala Banik by a Will has left her properties in favour of Sekhar Banik and Ratan Kumar Banik.

We cannot decide this issue in proceedings under Order XXII of the CPC and we have been told that Probate Proceedings in respect of the Will are pending.

Therefore, without deciding the question as to who are the legal heirs of Arun Bala Banik, we permit Sekhar Banik to prosecute this appeal as representing the estate of the deceased.

The appeal is of the year 2010 and arises out of a civil suit which was filed in the year 2006. We, therefore, direct that the appeal be listed for final hearing on **16th June, 2015.**

CM application accordingly stands disposed of.