

IN THE HIGH COURT OF TRIPURA
AGARTALA

FAO NO.03 OF 2014

1. Sri Lala Dhanuk,
son of late Rajkumar Dhanuk and late Parbati Dhanuk,
resident of Vill. 79 Tilla, A.G. Quarters Complex,
P.O. Kunjaban, P.S. East Agartala,
District West Tripura, PIN 799006
2. Sri Babu Dhanuk,
son of late Rajkumar Dhanuk and late Parbati Dhanuk,
resident of Vill. & P.O. Durjoynagar, P.S. Agartala Airport,
District West Tripura, PIN 799009

.....Appellants

– Vs –

1. Smt Kalpana Dhanuk,
wife of late Babul Dhanuk
(pre-deceased son of late Parbati Dhanuk),
resident of Vill. Radhanagar,
adjacent to Radhanagar bridge,
near Radhanagar Unnayan Sangha,
P.O. Agartala, P.S. West Agartala,
District West Tripura
2. Smt Pinki Dhanuk,
daughter of late Babul Dhanuk
(grand-daughter of late Parbati Dhanuk),
being minor, represented by her mother and natural guardian,
Smt. Kalpana Dhanuk,
resident of Vill. Radhanagar,
adjacent to Radhanagar bridge,
near Radhanagar Unnayan Sangha,
P.O. Agartala, P.S. West Agartala,
District West Tripura

..... Respondents

B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the appellants : Mr. M.K. Roy, Advocate

For the respondents : Mr. B. Saha, Advocate
Mr. Samarjit Bhattacharji, Advocate

Date of hearing & order : 20.03.2015

Whether fit for reporting :

Yes	No
	√

JUDGMENT & ORDER (ORAL)

Heard Mr. M.K. Roy, learned counsel, appearing for the appellants and Mr. B. Saha and Mr. Samarjit Bhattacharji, learned counsel appearing for the respondents.

2. This is an appeal under Section 384 of the Indian Succession Act, 1925 against the order dated 09.04.2014, delivered in Misc.(Suc) No.50/2013 by the Civil Judge, Sr. Division, Court No.2, West Tripura, Agartala, allowing the petition for granting Succession Certificate in terms of Section 372 of the Indian Succession Act.

3. There is no dispute that the appellants are the sons of deceased Parbati Dhanuk and through her pre-deceased son, namely Babul Dhanuk, the respondents have become the successor in the estate of said Parbati Dhanuk. There is also no dispute that the following estate (debt and security) are left to the heirs of Parbati Dhanuk, who died on 25.01.2013 at Agartala:

1.	Gratuity	-	₹7,29,432
2.	CGEGIS	-	₹51,949
3.	CELS	-	₹2,21,040
4.	GPF	-	₹75,064

4. After observing all the procedural requirements, the Civil Judge, Sr. Division, Court No.2, Agartala, West Tripura, has held that the petitioners, the appellants herein and the opposite parties, the respondents herein qua Babul Dhanuk are entitled to one-third of the estate. For purpose of dispelling any sort of ambiguity, it is made clear that the opposite parties (the respondents herein) are jointly entitled to one-third of the estate left by Parbati Dhanuk, whereas the petitioners No. 1 and 2 (the respondents No. 1 and 2) shall be entitled to one-third of the estate each. Having held so, by the impugned order dated 09.04.2014, the Civil Judge has observed and directed as under :

"I, therefore, find that there is a good ground for the grant of a Certificate. I am further of the opinion that the petitioner no.1 being the eldest son of the deceased is entitled to have the certificate issued in his favour.

Accordingly, prayer for issuing Succession Certificate stands allowed.

Issue a Certificate in favour of the petitioner no.1, Sri Lala Dhanuk on deposit of requisites stamp empowering him to collect the debts mentioned in the schedule of the petition. The petitioner no.1 shall execute a bond of ₹3,00,000/- (three lakh) with one surety as a condition precedent to the grant of the certificate for rendering an account (for preparing an inventory of the property of the deceased within six months from the date of execution of the bond) of the debts and securities to be received by him and to indemnify of other legal heirs of the deceased who are entitled to the share on the debts and securities left by the deceased."

5. Mr. M.K. Roy, learned counsel appearing for the appellants, has submitted at the outset, whether the succession

certificate can be issued separately to each of the successors to avoid all sorts of complicity. But, when the provisions of law has been explained to him, he has amended his prayer by stating that the certificate may be issued in favour of the appellant No.2, one of the heirs of Parbati Dhanuk, who will discharge the obligation as recorded by the Civil Judge, Sr. Division, Court No.2, Agartala, West Tripura.

6. From the other side, Mr. B. Saha, learned counsel appearing for the respondents, has not raised any opposition to that limited prayer that Mr. Roy, learned counsel appearing for the appellants has urged for.

7. Having regard to that consensus, this court is of the view that no harm or prejudice would be caused to the heirs of Parbati Dhanuk who are entitled to get the equal share, if the order is interfered to a limited extent that the certificate shall be issued in favour of the appellant No.2, namely Babu Dhanuk on deposit of requisite stamp empowering him to collect the debts mentioned in the schedule of the petition. The appellant No.2 shall execute a bond of ₹3,00,000 (rupees three lakh) with one surety as a condition precedent to the grant of the certificate for submitting an account with inventory, share and distribution thereof within six months from the date of execution of the bond of the debts and securities to be received by him and for indemnifying the other heirs of the deceased who are entitled to the share on the debts and securities left by the deceased. It is

further observed that the appellant No.2, namely Babu Dhanuk shall be entitled to deduct the cost of stamp that he would deposit for collecting the certificate in equal share, meaning one-third of the cost shall be deducted from the share of appellant No.1, Lala Dhanuk, one-third of the cost from the appellant No.2, Babu Dhanuk and one-third of the cost be realised from the share of the respondents (the opposite party Nos. 1 and 2 in Misc.(Succ) No.50/2013). Thereafter, he shall account for the debt and securities. It is directed that the appellant No.2 shall complete the collection of the debt and securities as mentioned in the schedule of the petition, within a period of 6(six) months and furnish the account as stated to the Court of the Civil Judge, Sr. Division, Court No.2, Agartala, West Tripura to discharge his obligation, arising from the bond.

8. With this direction and observation, this appeal stands disposed of.

Send down the LCRs forthwith.

JUDGE

ROY