

ODSL-6

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Testamentary & Intestate Jurisdiction
ORIGINAL SIDE

IA: No.GA/1/2020
(Old No. GA/224/2020)
In
PLA No. 99/2017

IN THE GOODS OF:
JHARNA DAS, DECEASED

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date : 24th November, 2020.

Appearance:

Mr. Aniruddha Mitra, Adv.
Mr, Sandip Ghosh, Adv.
Mr. D. Sen Gupta, Adv.
Mr. Partha Sarkar, Adv.
... for the petitioner

The Court : One Jharna Das, wife of Asit Kumar Das, died on 2nd February, 2015. Asit and Jharna had a daughter Arpita Das (Paramanik). Asit and Aripa predeceased Jharna. Subhankari Das, the mother of Asit, and the mother-in-law of Jharna had applied for Letters of Administration to the estate left behind by Jharna. The Letters of Administration was granted to Subhankari on 21st June 2019. Unfortunately, Subhankari died on 9th August, 2019 keeping the

estate of Jharna Das unadministered. This is an application by the surviving heirs of Subhankari under the provision of Section 259 of the Indian Succession Act, 1925 (hereinafter referred to as the said Act). The applicants have relied upon a judgement reported in *AIR 1953 Bombay 228* (Hirjibhoy Rustomji Patel -vs- The State of Bombay). The case before the Court in the said matter was as follows:

One Rattanshaw died on October 9, 1950 leaving behind his mother Meherbai and a brother being the appellant. The Letters of Administration to the estate of Rattanshaw was granted to Meherbai. Meherbai died on 6th December, 1951 leaving the estate of Rattanshaw unadministered.

The Division Bench of the Bombay High Court granted Letters of Administration to the estate of Rattanshaw to his brother Hirjibhoy. The reasoning given by the Division Bench of Bombay was that Hirjibhoy, being the brother, in the absence of Meherbai, the mother, would have been entitled to the grant of Letters of Administration to the estate of his deceased brother.

The facts of the instant case are similar to that before the Division Bench of the Bombay High Court reported in *Hirjibhoy Rustomji Patel (Supra)*. In the instant case, the Letters of Administration was granted in an uncontested form to Subhankari, the mother-in-law and the mother of the husband of the deceased. In the absence of the mother and there being no other heirs of Jharna alive at the time of her death, the properties comprised in the estate of

Jharna derived from her husband Asit, would devolve on to the heirs of Asit. The brothers and sisters who are now the applicants in the absence of Subhankari, the mother would have been entitled to the original grant being the Class II heirs of Asit. I am told that the Letters of Administration granted in favour of Subhankari was on the basis that the estate left behind by Jharna being the subject matter of the administration comprised of properties and assets inherited from Asit and were not the stridhan of Jharna. Since estate according to the applicants do not comprise of any stridhan of Jharna, there is no change in the devolution. The applicants therefor are jointly entitled to the Letters of Administration on the same term on which the Letters of Administration was granted to Subhankari under the order dated 21st June, 2019. The applicants are jointly appointed as administrators de bonis-non on the same terms of the grant made on 21st June, 2019.

It is clarified that the Letters of Administration is granted on the basis of the statements made on behalf of the applicants considering them to be true and correct and not being opposed by anyone. In the event any of the statements made in the said application or recorded in this order are found to be incorrect, the grant may be revoked.

The application stands disposed of without any order as to costs.

(ARINDAM MUKHERJEE, J.)