

OD-2

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Testamentary and Intestate Jurisdiction
ORIGINAL SIDE

PLA/334/2019

IN THE GOODS OF –
MUKUL CHATTERJEE (DEC)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: 31ST March, 2023.

Appearance:
Mr. V. V. V. Sastry, Adv.

The Court: The matter is listed as 'To be Mentioned' on 30th March, 2023 and accordingly, after hearing Counsel for the petitioner the case is fixed for today passing appropriate order.

Counsel for the petitioner submits that on 13th December, 2019 this Court has allowed prayer (a) of the PLA application being 334 of 2019 by allowing grant of Letters of Administration. The said order is passed by way of fiat.

Counsel for the petitioner has applied for certified copy of the fiat but the same was refused but not in writing.

Counsel for the petitioner submits that in terms of the Letters of Administration granted by this Court the petitioner has applied before the concerned authority to get benefit of the Letters of Administration but the authorities are directed the petitioner to supply the copy of the order wherein Letters of Administration was granted.

Counsel for the petitioner has applied for the order dated 13th December, 2019.

Admittedly, the petitioner has not applied for certified copy of the entire application being PLA No. 334 of 2019. The order dated 13th December, 2019 passed by way of fiat and has been endorsed by this Court at page No. 6 of the application.

This Court is of the view that the part of the said page cannot be granted to the petitioner and the petitioner has to apply the certified copy of the entire probate application so that he can get certify copy of the fiat also along with the application.

Counsel for the petitioner submits that the Office has also informed the petitioner that if the petitioner will apply for the certified copy of the PLA application, the petitioner will not get the portion of fiat where the order dated 13th December, 2019 is passed.

In this connection, this Court, for the purpose of supply of certified copy, directed the office to provide certified copy of the application, if the petitioner applies, on completion of all formalities along with the fiat dated 13th December, 2019. The certified copy has been described under Chapter IV, Rule 12 of the Original Side Rules of this Court and the procedure is prescribed under Chapter IVA of the said Rules. Rule 12 of Chapter IV read as follows:-

“12. Certified copies.-*Where the copies under rule 9 or 10 are required to be certified as provided in section 76 of the Indian Evidence*

Act, such certificate may be dated and subscribed by any officer of the Court to be deputed by the Registrar for the purpose.”

Chapter IVA of the Rule are as follows:-

“1. Except as otherwise provided by the Rules under this Chapter, Rules 9 to 16A of Chapter IV shall apply mutatis mutandis in regard to issuance of copies.

2. Copies of all documents, whether certified or uncertified, including complaints, written statements, exhibits, maps, plans, petitions, affidavits, judgements, decrees and orders passed by this Court shall be available at the rate of Rs.4/- a page either in the form of xerox or computerised print subject to availability of such document in the central data base. Further, a searching fee that may for the time being is in force shall be charged whenever such fee is payable.

3.(i) On receipt of an application for copy, the Officer-in-Charge of Records shall immediately requisition the relevant records or the minutes, as the case may be. Upon receipt of the records or the minutes, the Officer-in-charge shall notify the charges for the copy applied for.

(ii) Where the copy applied for is a judgement, decree or order of this Court disposing of the main proceedings, such copy shall include the full cause title of the proceedings in which such judgement, decree or order has been passed.

(iii) Where the copy applied for is a judgement, decree or order of this Court disposing of the main proceedings, in notifying the charges for such copy, the Officer-in-Charge shall also take into consideration the total

number of pages, containing the cause title of the proceedings, at the rates mentioned in Rule 2 hereof but not the searching fees thereof.

Separate sheet or sheets containing the complete cause title of the proceedings in which the judgement, decree or order disposing of the main proceedings was passed, the copy of which may have been applied for shall also be filed along with the application for copy.

Provided that the Officer-in-Charge shall in appropriate cases certify that he has compared the cause title, furnished by the applicant, with the original in his custody:

Provided further that when the copy applied for is an interlocutory order passed in any proceedings, if the applicant so desires, it shall not be necessary to supply full cause title and the certified copy will be given on the basis of short cause title direct from the Server after making proper assessment of the charges as provided above.

4. The charges that may be notified shall be paid by court-fee stamps to be affixed on the first page of the copy and punched.

5. All copies shall bear the seal of the Court and shall be certified to be a true copy and signed in full by an Officer authorized to do so by the Registrar. The Certifying Officer shall append to his signature the words "Authorised under Section 76 of the Indian Evidence Act, 1872(ACT I of 1872).

6. When the copy applied for is a judgement, decree or order, the following particulars shall be recorded on the bank of the copy itself, and in the form given below:

- i) *date of application for copy;*
- ii) *date of notifying the charges;*
- iii) *date of putting in the charges;*
- iv) *date on which the copy was ready for delivery;*
- v) *date of making over the copy to the applicant;”*

Considering the above provisions, the Department is directed to provide certified copy in terms of the provision as mentioned above to the petitioner, if the petitioner applies, after completion of all requisite formalities.

The order may be communicated to the Registrar, Original Side for compliance.

(KRISHNA RAO, J.)