

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR 3726 of 2019 (O&M)
Date of Decision: February 19, 2020

Mahant Traveni Dass

....Petitioner

Versus

General Public and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Vivek K. Thakur, Advocate for the petitioner.

MAHABIR SINGH SINDHU, J.

Present revision has been filed under Article 227 of the Constitution of India against the impugned order dated 14.01.2019, passed by Learned Civil Judge (Sr. Division), Kapurthala, whereby the application of petitioner/ defendant No.2 for adjourning the probate petition sine-die, was dismissed.

It is contended on behalf of the petitioner that respondent No.3 Mahant Mahatma Muni, Chela Mahant Parkash Muni is facing a criminal case arising out of FIR No.95, dated 29.08.2016, under Sections 302, 506, 34 IPC read with Sections 25/27 of the Arms Act, registered at Police Station Lopoke, District Amritsar, for committing the murder of Mahant Parkash Muni, thus, in view of Section 25 of the Hindu Succession Act, 1956, (for short 'Act of 1956), he is not entitled to obtain the Succession Certificate for the estate of deceased Sant Shanti Dass. Further contends that on one hand, police is not taking any action against respondent No.3 in the above criminal case and on the other hand, learned Court below while

proceeding with the probate petition is bent upon to grant the Succession Certificate in his favour.

Heard learned counsel for the petitioner and perused the paper-book.

It transpires that Sant Shanti Dass, Chela Sant Joginder Muni, Dera Baba Charan Dass, Village Khera Bet, PO Surakhpur, District Kapurthala, during his life time executed a Will dated 05.03.2008 to the effect that after his death, the property shall vest in the Udasin Dera Baba Charan Dass and whosoever is appointed as Mahant of the Dera, shall be entitled for the property of the Udasin Dera. Sant Shanti Dass died on 05.12.2013 and after his death, Mahant Parkash Muni was appointed as Mahant by bhekh of Udasin Sect on 22.12.2013. Thereafter, he filed a petition under Section 372 of the Indian Succession Act, 1925, (for short 'the Act of 1925) on 30.05.2014, but during pendency thereof, he died on 18.11.2014 and that resulted into the lodging of the FIR, mentioned above against respondent No.3 and other co-accused.

Claiming to be the lawful successor, respondent No.3 moved an application before the Court below for impleadment as legal representative of Mahant Parkash Muni; whereas present petitioner also filed an application under Order 1 Rule 10 CPC for arraying him as respondent in the probate petition to oppose the claim of respondent No.3. Learned Court below allowed both the applications vide order dated 01.10.2018 (P-7) and as pointed out by learned counsel for the petitioner, the said order has not been further challenged, rather become final.

Since the proceedings in the probate petition were going on smoothly, but again petitioner moved an application dated 29.11.2018 (P-5) with a prayer to adjourn the matter sine-die in view of the pendency of the above FIR, which was opposed at the instance of respondent No.3, by way of his reply. After hearing both sides, learned Court below dismissed the application with the observations that (i) mere registration of the FIR does not mean that respondent No.3 is a murderer and (ii), that proceedings under Section 372 of the Act of 1925 are summary in nature and even if a succession certificate is granted in favour of any of the parties, that would be subject to furnishing of an indemnity bond to indemnify the better claimants, if any.

Now again, petitioner is reiterating the submission that since a criminal case is pending against respondent No.3, therefore, the probate petition be adjourned sine-die. On repeated asking by this Court, learned counsel for the petitioner is not able to show any provision(s) of law that matter can be adjourned sine-die merely on the ground that a criminal case under Section 302 IPC is pending against a person, who is pursuing his petition under Section 372 of the Act of 1925 for seeking a Succession Certificate. Mere pendency of the criminal case is not a disqualification under Section 25 of the Act of 1956 for inheriting the property of the deceased, until and unless the claimant is proved to be guilty by a Court of competent jurisdiction. Section 25 of the Act of 1956, being relevant, reads as under:-

“Section 25. A person who commits murder or abets the commission of murder shall be disqualified from inheriting the property of the person murdered, or any other property in

furtherance of the succession to which he or she committed or abetted the commission of the murder.”

Since in the present case, there is no material available on record to show that even the charges have been framed against respondent No.3 under Section 302 IPC uptill now, therefore, by no stretch of imagination, it could be termed that he is a murderer of Sant Parkash Muni entailing disqualification in terms of Section 25 reproduced hereinabove. Needless to say, that petition under Section 372 of the Act shall be decided by the Court below after taking into consideration the rival claim of the parties, therefore, on that count also, it would not be appropriate to stall the proceedings till the conclusion of the criminal trial. Still further, as rightly observed by learned Court below that even if respondent No.3 succeeds, still he would be required to furnish an indemnity bond for the better claimants, if any.

In view of the above, this Court does not find any infirmity with the impugned order passed by learned Civil Court while rejecting the request of the petitioner for adjourning the probate petition sine-die.

Consequently, the present petition is dismissed.

The above observations may not be construed as an expression of opinion on the merits of this case.

February 19, 2020
sanjay

[MAHABIR SINGH SINDHU]
JUDGE

Whether speaking/reasoned
Whether reportable?

yes/no
Yes/no