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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
*Date of Decision: 11<sup>th</sup> February, 2020*  
+ **CM (M) 992/2019 and CM APPL. 29633/2019**  
**BABA GOPAL DASS SAHIB TALIB DARVESH** ..... Petitioner  
Through: Mr. Shailendra Bhardwaj and Ms.  
Aroma S. Bhardwaj, Advocates (M:  
9811028868).

versus

**THE STATE OF NCT OF DELHI & ORS.** ..... Respondents  
Through: Mr. S.K. Tandon, Advocate  
(M:9810168570).  
Mr. Kushagra Pandey, Panel Counsel  
(Civil) GNCTD for R-1 (M:  
9999266111).

**CORAM:**  
**JUSTICE PRATHIBA M. SINGH**

**Prathiba M. Singh, J. (Oral)**

1. The present petition challenges the impugned order dated 6<sup>th</sup> April, 2019, by which the trial court has dismissed the application under Section 24 CPC seeking transfer of a petition seeking issuance of a Succession Certificate to the Court where a petition seeking letters of administration in respect of the same assets was pending.
2. The admitted facts are that a petition has been filed under Section 218 and 278 of the Indian Succession Act, 1925 in respect of the assets of late Mateshwari known as Pujya Amma Kamla Ji, and the same is pending. The prayer in the petition is in respect of amounts lying in an account with the Allahabad Bank, Timarpur Branch, in the name of the deceased. There are various claimants to the said amount. While one petition is pending for grant of letters of administration, another petition under Section 372 of the Indian Succession Act is also pending for grant of succession certificate. The same

is pending before the Id. Civil Judge. The District Judge before whom the application was pending, going by Rule 2 Part B of the Delhi High Court Rules, has held that the petition seeking issuance of a Succession Certificate Case can be exclusively tried only by the Civil Judge and has rejected the application under Section 24 CPC. The observations of the court are as under:

*“Without going into the merits of the case and in view of the fact that Rule 2 Part B of the High Court Rules provides that an application u/s ‘X’ of the Indian Succession Act will usually be dealt with by sub ordinate judges and appeals from their orders granting, refusing or revoking the certificate will lie to the District Judge., I am of the opinion that petition for grant of succession certificate with respect to movable properties is exclusively triable by the Court of Ld. Administrative Civil Judge and in the instant application, case sought to be transferred from the court of Ld. Administrative Civil Judge (Central) is with respect to grant of succession certificate in relation to the credit balance lying in Allahabad Bank, Timarpur. Hence, that case cannot be transferred to the court of Ld. Additional District Judge, where the petition seeking letters of administration is pending adjudication. Application is misconceived and dismissed accordingly. Copy of the order be sent to the concerned courts.”*

3. Ld. counsel for the Petitioner has drawn the attention of this Court to the said Rule in Chapter 6 of the Delhi High Court Rules, which reads as under:-

**“CHAPTER 6**

**Ch. 6**

**Probate, Administration and Succession Certificates**

**Part B SUCCESSION CERTIFICATES**

**2. Sub-Judges empowered to grant certificate—all**

*Subordinate Judges of the first and second class have been invested with the functions of a District Court for the purposes of granting succession certificates by Punjab Government Notification No. 781, dated 15th July 1914, which continues to be in force—(vide General Clauses Act, 1897, Section 24).*

*Application under Part X of the Indian Succession Act, 1925, will usually be dealt with by subordinate Judges and appeals from their orders granting, refusing or revoking certificates will lie to the District Judge. When a District Judge finds it necessary to deal with any application under the Act as an original Court the appeal will lie to the High Court under Section 384, subsection (1) of the Act. "*

4. Relying upon the said Rule, he submits that the Rule does not bar the District Judge from dealing with such applications.
5. The assets involved i.e. the amount lying in the bank account, is identical in both the petitions and parties are also broadly the same. Section 371 of the Indian Succession Act, 1925 reads:

*“371. Court having jurisdiction to grant certificate – The District Judge within whose jurisdiction the deceased ordinarily resided at the time of his death, or, if at that time had no fixed place of residence, the District Judge, within whose jurisdiction any part of the property of the deceased may be found, may grant a certificate under this Part.”*

Thus, as per Section 371 of Indian Succession Act, 1925, the power has been conferred upon the District Judge. The powers of the District Judge have been thereafter ‘invested with’ the Subordinate Judges as per the DHC Rules. A perusal of the Rule extracted above shows that the same provides that ‘usually’, succession certificates would be dealt with by subordinate

judges. However, this would not mean that the District Judge who is a superior Court cannot hear and pass orders in a petition under Section 372. The order of the trial court is thus an incorrect interpretation of the provisions. In order to avoid conflicting judgments and also to ensure that all the interested parties are heard and the adjudication is fair and just, it is directed that the petition under Section 372 of the Indian Succession Act shall be listed before the same Id. ADJ who is hearing the petition for grant of letters of administration under Section 218 and 278 of the Indian Succession Act. The stages of both these petitions are not the same, thus, consolidation orders are not being passed, however, if the petition under Section 372 is decided earlier, appropriate orders would be passed to safeguard the interest of the Petitioners who have filed petitions seeking letters of administration.

6. With these observations, the petition with all pending applications is disposed of.

7. Copy of this order be sent to the District Judge (Central), Tis Hazari Courts for listing Succession Certificate Case no.32965/16 titled as *Duru Bijlani (Through LRs.) and Ors. Vs. State & Ors.* along with Letters of Administration Petition no. 42464/16 titled as *Baba Gopal Das Sahib Talib Darvesh Asthan Sewak Sabha (Reg.) Vs. State & Ors.*

**PRATHIBA M. SINGH  
JUDGE**

**FEBRUARY 11, 2020  
MR/RG**