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SK
Ct. No. 18
25.08.2021

**C.O. No. 34 of 2021
(Via Video Conference)**

**Arijit Bhattacharjee @ Chayan Bhattacharjee
Vs.
Smt. Susmita Chakrabarty**

Mr. Rupayan Deb ... For the petitioner.

Ms. Mita Mukherjee,
Ms. Iti Dutta ... For the opposite party.

This is an application under Section 24 of the Code of Civil Procedure.

The petitioner being the named executor of the alleged last Will and testament of one Mukti Ghosh has applied for grant of probate of the said Will, before the learned Chief Judge, City Civil Court at Calcutta. The said application has been registered before the said Court as Probate Case No. 06 of 2020.

The opposite party in the capacity of the named executrix of another Will of the said Mukti Ghosh has applied for grant of probate of the said Will before the District Delegate at Alipore District. 24 Parganas (South) being the 1st of Court of learned Civil Judge, (Senior Division) at Alipore which has been registered before the said Court as Act XXXIX (Probate) Case No. 57 of 2018.

The petitioner by the present application is praying withdrawal of the said Act XXXIX (Probate) Case No.

57 of 2018 from the Court where it is now pending and for transfer of it to the Court of learned Chief Judge, City Civil Court at Calcutta where the probate suit filed by the petitioner is pending.

Mr. Rupayan Deb, learned advocate appearing on behalf of the petitioner submits that the present application is aimed to bring both the suits at one place to avoid conflicting decisions.

Ms. Mita Mukherjee, learned advocate for the opposite party on the other hand submits that the opposite party since has filed the suit prior to the suit filed by the petitioner, the transfer of the suit of the opposite party to the Court where the suit filed by the petitioner is pending cannot be allowed.

Mr. Deb in his usual fairness submits that the whole object of the application is to bring both the suits in one Court to avoid conflicting decisions; therefore, the probate suit filed by the petitioner in the City Civil Court may be transferred to the Alipore Court.

I find substance in such suggestion of Mr. Deb.

In view thereof the Probate Case No. 06 of 2020 be withdrawn from the Court of learned Chief Judge, City Civil Court at Calcutta and be transferred to the Court of learned District Delegate at Alipore being the 1st Court of learned Civil Judge, (Senior Division) at Alipore, District 24 Parganas (South).

In the event the said proceedings becomes contentious the learned District Judge Alipore, District. 24 Parganas (South) shall transfer both the suits to any Court under his judgeship competent to try and dispose of the said suits.

The suit transferred by this order shall proceed from the stage at which it has already reached.

The parties shall appear before the transferee Court without any further notice.

C.O. 34 of 2021 is disposed of with the above terms without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)