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SK
Ct. No. 18
08.04.2021

(Via Video Conference)
C.O. No. 59 of 2021
CAN 1 of 2021

Sri Bimal Sankar Nanda
Vs.
Sri Rabi Sankar Nanda & Ors.

Mr. Jayanta Das,
Ms. Soumita Ghosh ... For the petitioner.

Mr. S. C. Dhara ... For the opposite party nos. 1 & 2.

Affidavit of service filed in Court today be kept with the record.

The matter although has been brought in the list for extension of interim order, but by consent of the parties the revisional application is taken up for final disposal.

Re: CAN 1 of 2021

The petitioner has filed an application being CAN 1 of 2021 for expunging the name of one Sushila Nanda, the opposite party no. 3 herein, since she has already died.

Let the name of the said opposite party be expunged from the cause-title of the revisional application.

The department is directed to amend the cause-title of the revisional application accordingly.

CAN 1 of 2021 is thus disposed of without any order as to costs.

Re: C.O. 59 of 2021

The petitioner is the named executor of the alleged last Will and testament of his father namely Baneswar Nanda.

The petitioner after the death of the said testator applied for grant of probate of the said Will which has been registered before the learned Civil Judge, (Junior Division) at Dantan, District Paschim Medinipur being J. Misc. Case No. 28 of 2010.

At the fag end of the said proceeding it was detected that one of the daughters of the said testator has not been cited.

The learned trial Judge by the order impugned being Order No. 62 dated November 27, 2020 has directed the petitioner to take necessary steps in this regard.

The petitioner with the leave of this Court has added the said daughter of the testator as the party in the present proceeding being opposite party no. 4.

In terms of the direction of this Court, notice of the present revisional application was published in the Bengali newspaper, but the said daughter of the testator did not turn up to contest the present application.

Be that as it may, the daughter of the testator having caveatable interest is required to be cited, otherwise the grant would be defective in substance,

the learned Trial Judge, therefore, is absolutely justified in directing the petitioner to take steps in this regard.

C.O. 59 of 2021 is disposed of by granting liberty to the petitioner to add the said daughter of the testator as a party in the said probate proceeding and to take steps for issuance of citation upon her. In the event the address of the said daughter of the testator is not known to the petitioner, the learned Trial Judge shall permit the petitioner to issue such citation by publication.

The probate proceeding is pending since 2010, the learned trial Judge is requested to expedite the issuance of such citation and to make all endeavour to dispose of the said proceeding as expeditiously as possible and in doing so shall not grant any unnecessary adjournment to either of the parties.

No 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.)