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29-11-2021

Ct. 8

FMAT 283 of 2018
With
CAN 1 of 2019 (old CAN 11235 of 2019)

Shrimati Sabita Giri & Ors.
Versus
Shrimati Kanchan Giri & Ors.

(Through Video Conference)

Mr. Rabindranath Mahato, Adv.
Mr. Aritra Shankar Ray, Adv.
...for the appellants

The appellants claimed succession to the estate of their deceased husband and father, which has been challenged by some of the legal heirs of the deceased. There are rival claims of two groups of alleged successors to the estate of the deceased. Apparently, the dispute is between the children of two wives of the deceased. The dispute remains with regard to identity of the legal and illegal wife.

The learned Counsel appearing on behalf of the appellants submits that irrespective of the fact that whether the appellants were born out of the wedlock with the illegitimate wife of the deceased, their right to succession could not have been denied. There cannot be any dispute with regard to the proposition provided to establish their identity before a right to be claimed over the assets and estate of the deceased. It is not in dispute that Smt. Kanchan Giri, who also claimed to be the wife of the deceased, was appointed as a nominee of Chandi Charan Giri in his service book. The nominee named in his service record is

entitled to receive 100% of the service benefits and the succession certificate can only be granted to the said nominee. The question whether the nominee on receipt of such entire amount can use and utilize such fund, is not an issue that is required to go into at the time of issuance of the succession certificate. The legal heirship issued is not the matter to be adjudicated in the said proceeding. It can be decided in an appropriate proceeding to be initiated by the parties who claimed the benefits of the said estate as a legal heir or otherwise.

On such consideration, we do not find any reason to interfere with the order passed by the learned Civil Judge (Senior Division), 3rd Court, and District Delegate, Paschim Medinipore.

The appeal and the connected application are accordingly, disposed of.

However, there shall be no order as to costs.

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

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)