

C.O. 2269 of 2019

Sri Malay Kumar Mandal
-Vs-
Smt. Soma Rani Paik & Ors.

Mr. Sandip Das,
Mr. Indubhusan Das.
...for the petitioner.

Mr. A. Dasgupta.
.....for the opposite parties.

The petitioner of the present application under Article 227 of the Constitution of India is the named executor of the alleged last Will and Testament of one Sunirmal Paik.

The petitioner after the death of the said Sunirmal Paik applied for grant of probate of the said Will before the learned District Delegate, Purba Medinipur.

The probate of the Will was granted on July 10, 2014. The opposite party no.1 claiming to be the daughter and the opposite party no.2 claiming to be the widow of the said testator applied for revocation of the said grant on the ground that the said grant was made without issuing citation to them.

The said application was registered before the learned District Judge, Purba Medinipur as J. Misc. Case No. 87 of 2018.

The learned District Judge by the order impugned being Order No.2 dated October 06, 2018 has allowed the application filed by the said

opposite parties for stay of operation of the said grant.

The petitioner is challenging the said order on the ground that an order staying the operation of grant at this stage would be amounting to allowing the prayer in the said misc. case itself.

The said contention of the petitioner has substance inasmuch as the stay of operation of the grant pending disposal of an application for revocation of the said grant is amounting to allowing the prayer of the said opposite parties at the interlocutory stage.

Therefore, the order impugned is not sustainable and is accordingly set aside.

However, this order will not prevent the said opposite parties to pray for an appropriate order of injunction in respect of the properties covered under the Will or appointment of an administrator *pendente lite* over the said properties pending disposal of the said revocation proceeding.

C.O. 2269 of 2019 is, thus, allowed. 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.)