

**FMA 331 of 2020
With
CAN 1 of 2020(Old CAN 2182 of 2020)**

**Salil Kumar Bhattacharjee
Vs.
The State of West Bengal & Ors.**

Mr. Partha Pratim Roy
Mr. Dyutiman Banerjee

... ... for the appellant

Mr. Samrat Sen, AAAG
Mr. Subhendu Sengupta

... ... for the State

This appeal at the instance of the writ petitioner is directed against the order of the learned Single Judge dated 14.11.2019 whereby WP No. 18853 (W) of 2018 has been disposed of.

The writ petitioner had approached the Writ Court with the plea that his father Dr. Sailendra Kishore Bhattacharya had died intestate on 24.04.1996 and that in the year 2017 the writ petitioner had come to know from a reliable source that his father had executed his last Will and Testament in the year 1988. Hence, he had approached respondent no.4, Registrar of Assurances, Kolkata seeking inspection of the record of the concerned year and he was not permitted the inspection of Volume 9 of Book No. III concerning to the year 1988. Therefore, he had approached this Court seeking a direction to the respondents to produce the documents and records pertaining to the respective volumes of Wills (Book No. III) of the year 1988.

Learned Single Judge considering the grievance of the writ petitioner had passed certain orders for granting full and comprehensive opportunity to the writ petitioner to inspect the record.

Learned Single Judge in the impugned order has noted that in spite of the efforts the concerned record could not be traced out and in the circumstances he reached to the conclusion that no purpose would be served in keeping the petition pending. Hence, learned Single Judge has issued the direction to the respondent no.4 to inform the petitioner within four months from the date of the communication of the order whether he had been able to trace out any Will of the petitioner's father who had died on 24.04.1996.

Learned counsel for the respondents has produced the communication dated 3rd March, 2020 send by the ADSR (Records) of office of Registrar of Assurances, Kolkata to the Registrar of Assurances, Kolkata recording as under:

“After extensive & repeated search in record section to trace out the relevant record, Record Keeper submitted a report on 27.02.2020 to the undersigned that an entry regarding the name of one Mr. Sailendra Kishore Bhattacharya, Son of Late Baroda Kishore Bhattacharya is inscribed as testator of a will in an index I register for the year 1980 under book no III & the number of that document is 536, copied in pages, from 4 to 8 of volume no 33 for the year 1980.

Also true copy of the aforesaid will, being no 536 of 1980 is available in the record section of this office.”

The above communication reveals that one Will executed by Mr. Sailendra Kishore Bhattacharya, son of Late Baroda Kishore Bhattacharya registered in the year 1980 has been traced out and the stand of the learned counsel for the respondents is that there is no difficulty in giving the certified copy of the said Will to the appellant in accordance with law.

Learned counsel for the respondents has also submitted that the concerned Volume 9 of Book III of the year 1988 is not traceable and a list on the basis of the Fee Book and Index of Will has been prepared which is already on record as Annexure R-1 and the said list of Wills contains all the details of the persons whose Wills have been registered in 1988 but the name of the appellant’s father does not appear.

Learned counsel for the appellant has pointed out that at between Deed Nos. 274 and 275 certain pages are missing. Nothing has been pointed out to ascertain if the said missing pages relate to any missing Will or relate to some other documents which is not in the nature of Will hence not included in the list.

Be that as it may, since the pages are shown to be missing, let the necessary enquiry in this regard be conducted by the respondent no.4 and if any other Will

relating to the appellant's father is found therein the same be disclosed to the appellant.

Let this exercise be completed within a period of four weeks.

The appeal is accordingly disposed of.

Connected application is also disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)