

06.07.2022
Sl. No.7(SL)
srm

W.P.A. No. 10207 of 2022

Chandra Mani Mondal

Versus

The State of West Bengal & Ors.

Mr. Surya Prasad Chattopadhyay,
Mr. Arjun Samanta

...for the Petitioner.

Mr. Amitesh Banerjee,
Ms. Ipsita Banerjee

...for the State-respondents.

Mr. Shamit Sanyal,
Mr. Sabyasachi Ray

...for the Respondent No.6.

Affidavit-of-service is taken on record.

The issue, which was raised before this Court, has
been resolved.

The petitioner had alleged that the Officer-in-Charge, Anandapur Police Station was not handing over the body of the deceased to the petitioner, who was his caretaker, during his last days. It is further submitted that unless the cremation takes place and a death certificate is issued, the petitioner will not be able to seek probate of the last will and testament of the deceased.

The police authorities had refused to handover the body to the petitioner on the ground that the petitioner

was neither a near relative nor a legal heir of the deceased.

An insertion was put in a local newspaper with a query about the near relatives of the deceased. The added respondent No.6 approached the police authorities for release of the body, so that the cremation could take place.

As none other than the petitioner and the respondent No.6 have claimed association with the deceased, this Court is of the view that the respondent No.6 be handed over the body for performance of the last rites. The petitioner shall accompany the respondent No.6. The last rites will be performed by the respondent No.6. Thereafter, the petitioner shall apply for a death certificate in accordance with law, before the competent authority. The petitioner and the respondent No.6 will reach the Anandapur Police Station on July 22, 2022 at 11:00 a.m. Thereafter the Officer-in-Charge shall do the needful.

This order shall not have any impact with the claims of the parties in respect of the assets of the deceased.

The writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)