

21.07.2022
Item No.26
Ct. No.7
CHC
(disposed of)

C.O.1518 of 2022

**Siddhartha Dutta
Vs.
Shanti Dutta**

Mr. Manas Kumar Das
...for the petitioner

The subject-matter of challenge in this revisional application is against order dated 18th May, 2022, passed by learned District Delegate, Kandi, Murshidabad, in Probate Case No.08 of 2019, directing some class-I legal heirs of testator of the Will namely, Ashok Dutta to be impleaded as opposite parties in this case.

At the very threshold of this case, Mr. Das, learned advocate appearing for the petitioner draws attention of this Court to order dated 9th September, 2021, passed in C.O.1547 of 2021 regarding expeditious disposal of pending Probate proceedings.

Learned advocate appearing for the petitioner submits that testator, Ashok Dutta executed Will in favour of his brother Siddhartha Dutta, who looked after testator Ashok Dutta till he took his last breath. The son and wife of Ashok Dutta, according to petitioner, have deserted Asok Dutta long before the execution of the Will.

Regarding the alleged material suppression of not impleading legal heirs of Ashok Dutta, learned advocate for the petitioner submits that since petitioner had no sufficient knowledge about the present whereabouts of the son and wife of deceased Ashok Dutta, a paper publication was made accordingly to make due adherence to the citation which was duly published in a Bengali Daily Newspaper.

Even after publication of such notice in the form of citation, nobody for and on behalf of Ashok Dutta showed his any interest in this pending Probate proceedings. The court below being oblivious of such previous paper publication proceeded to make some observation alleging suppression of material facts regarding non-impleadment of class-I legal heirs of testator, Ashok Dutta. The paper publication, if made with the order of the court, needs to be taken care of by the court below before making any order regarding steps to be taken for impleading the legal heirs of Ashok Dutta as opposite parties in this case. That being the position, no further elaboration is necessary.

The impugned order dated 18th May, 2022, passed by the court below is thus set aside with the direction upon the petitioner to file an application supported by copy of paper publication, if made taking order of the court within fortnight from the date of communication

of this order, and learned court below shall revisit the same in accordance with the provisions of the law, bearing in mind the text of the paper publication, if any, made earlier, pursuant to the disclosure of the petitioner vide its petition submitted earlier, and resolve the issue in accordance with the provisions of the law, providing sufficient opportunity of hearing to either of the parties to this case, but without granting any unnecessary adjournment, unless it is extremely unavoidable.

With this observation/direction, the revisional application stands disposed of.

Urgent certified photostat copy of this order, if applied for, be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Subhasis Dasgupta, J.)