

05.04.2022  
Ct. 21  
D/L 11

**C.O. 1436 of 2021**

**Mrs. Kusum Liu @ Liu Kusum & Anr.**

**-Vs-**

**Priyanka Jindal**

Mr. Ranjit Kr. Jaiswal,  
Mr. Nandalal Pradhan

... for the petitioners

Mr. Sauvik Nandy,  
Mr. U.K. Jana,

... for the respondent

Parties are represented by their respective  
advocates.

The application under Section 24 C.P.C. is  
taken up for hearing

Hearing Concluded.

The petitioner Mrs. Kusum Liu @ Liu  
Kusum and Mrs. Gouri Bharadwaj, daughter of  
late Subhlata Chatrath have filed the present  
application seeking transfer of Letter of  
Administration Case No. 305 of 2018 pending  
before the District Delegate at Alipore, to the  
Court of learned Chief Judge, City Civil Court,  
where another Letter of Administration Case no.  
23 of 2018 is pending.

The facts giving rise to the present  
application in gist is that Yeshwant Chopra was

the owner of a residential building at 23A/53A, Diamond Harbour Road, Kolkata- 700053 and three shops being no. 31 and 41 and F.N. No. 6 and 66 situated at ground floor at Netaji Subhash Road, Police Station- Barabazar, and 27/2C Strand Road, 2<sup>nd</sup> Floor at Mezzamine Floor, under Police Station- Hare Street, Kolkata- 700001.

Yeshwant Chopra died intestate leaving behind his widow Satyarani Chopra and two daughters namely Subhlata Chatrath and petitioner no.1 Kusum Liu as his legal heirs on 23.11.1983. That Satyarani Chopra too died intestate leaving behind her two daughters as her legal heirs on 03.11.2012.

That Subhlata Chatrath, the eldest daughter of deceased Yeshwant Chopra too died on 08.09.2015, leaving behind her four daughters namely Gouri Bhardwaj/ the petitioner no.2, Mini Bhardwaj, Sonila Mehra and Priyanka Jindal/ the respondent.

The petitioner no.1 has alleged that on demise of her parents she and her elder sister Subhlata Chatrath acquired 50 per cent share each in the property left behind by their deceased parents. On the demise of her elder sister Subhlata Chatrath, her 50 per cent share devolved upon her four daughters.

That respondent Priyanka Jindal illegally in collusion with her husband took physical possession of the entire properties left behind by her father Yeshwant Chopra as she is a resident of Vienna, Austria. She was denied access to her paternal home at 23A/53A Diamond Harbour Road, when she visited India in June, 2018. Later, she came to know the respondent by practicing fraud transferred share in Chatrath & Daughters Sarees Private Limited in her name by depriving her other three sisters.

She filed suit being no. C.S. No. 216 of 2018 before this Hon'ble High Court for partition of the property of her parents and in such suit she came to know about existence of will left behind by her father and mother where the family members of her deceased elder sister have been appointed as an executor of the will. The respondent has filed two cases for Letter of Administration one before the learned Chief Judge, City Civil Court at Kolkata in respect of the alleged will left by Yeshwant Chopra and another in respect of the will left by her deceased mother Satyarani Chopra in the Court of learned District Delegate at Alipore and as such during the pendency of such cases for L.A. the partition suit filed by her is kept at abeyance.

Therefore, she has prayed that both the cases for L.A. should be heard by a single judge for proper determination and for expeditious disposal as in both the case the subject matter is same and parties are same.

It has been contended by learned advocate for the opposite party that matter pending before District Delegate cannot be transferred as the same is non-contentious and it relates to properties situated outside the jurisdiction of City Civil Court.

On such submission learned advocate for the petitioner files copy of W.O filed by petitioner no.1 in L.A case no. 305 of 2018 and the order passed by the District Delegate on 22.7.2021 and which shows that petitioner no.1 has indeed filed W.O. Therefore, District Delegate loses jurisdiction moment the matter becomes contentious.

It is admitted fact the petitioner no.1 is contesting the L.A case no. 23 of 2018 pending before the learned Chief Judge, City Civil Court.

This Court is of view in order to equity and for proper adjudication of both L.A 305 of 2018 and L.A no.23 of 2018 need to be heard either by District Judge Alipore or by Chief Judge City Civil Court. Since both the cases are filed by the

Respondent, then it will not prejudice the interest of the respondent if L.A. 305 of 2018 is withdrawn and transferred to City Civil Court.

Therefore, let the L.A No. 305 of 2018 be withdrawn from District Delegate at Alipore and be transferred to the Court of Chief Judge City Civil Court. The learned Chief Judge may keep the case in his/ her own file or transfer the same to any other Court having jurisdiction to try and dispose of the same or transfer the case to the Court where L.A no.23 of 2018 is pending.

The learned District Delegate at Alipore shall transfer the records of L.A No. 305 of 2018 to the Court of the learned Chief Judge City Civil Court within a period of 30 days from the date of communication of this order

The parties shall appear before the learned Chief Judge City Civil Court on 16.05.2022 irrespective of transfer of the records of the said title suit but only on the basis of sever copy of this order.

The learned District Delegate at Alipore, shall act on such communication.

The transferee Court shall proceed to dispose of the said suit from the stage at which it has already reached.

The transferee Court is further requested to expedite disposal of the said title suit in accordance with law.

Accordingly, **C.O. 1436 of 2021** is disposed of.

Connected application, if any, also stands disposed of.

Interim order, if any, stands vacated.

There shall be no order as to costs.

Parties shall act on the server copy of this order duly downloaded from the official website of this Court.

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

**(Kesang Doma Bhutia, J.)**