

12.07.2022
Sl.No.7(SL)
srm

W.P.A. No. 15007 of 2022

Sri Rajesh Ghosh

Versus

The State of West Bengal & Ors.

Mr. Saptangshu Basu,
Mr. Sibasish Ghosh,
Mr. Sanjib Mukherjee,
Mr. Uttam Chakraborti

... for the Petitioner.

Mr. Amitesh Banerjee,
Mr. Suddhadev Adak

...for the State-respondents.

Mr. Manas Kumar Das

...for the Added Respondent No.8.

Affidavit-of-service is taken on record.

The writ petition has been filed challenging inaction of the Officer-in-Charge, Bansdroni Police Station, in handing over the body of the deceased, namely, Dipankar Saha.

According to Mr. Basu, learned Senior Advocate appearing on behalf of the petitioner, the deceased was looked after by the petitioner and the petitioner is the nominee in the bank accounts and also is the legatee under the last will and testament, of the deceased. Mr. Basu further submits that unless the body is handed over

and cremated, the petitioner would not be able to take appropriate steps with regard to the estate of the deceased.

The police authorities had refused to hand over the body of the deceased to the petitioner, on the ground of a rival claim made by a distant relative.

Mr. Das, learned Advocate, represents the other claimant, namely Arup Saha, son of late Arun Kumar Saha. Mr. Arup Saha is present in Court.

The learned Advocate-on-record for the petitioner is directed to add Arun Saha as the respondent No.8, here and now.

As these are the only two claimants before the police authorities in respect of the body, this Court is of the directs that the petitioner and the added respondent No.8, shall approach the Officer-in-Charge, Bansdroni Police station on July 14, 2022 at 11:00 a.m. They will be accompanied by the said Officer-in-Charge, to the morgue where the body has been preserved. The body shall be handed over to both, upon compliance of formalities. The last rituals shall be jointly performed at the crematorium.

Thereafter the parties will be at liberty to approach the appropriate authority for supply of the death certificate. Once the cremation is over, the parties will be

taken to the house of the deceased, which is under lock and key. The Officer-in-Charge himself shall allow the lock to be opened and all the documents which are necessary to be obtained by the petitioner for completion of all formalities with the bank and also for initiation of the proceedings for probate, etc. shall be handed over in original, to the petitioner, by furnishing photocopies of each and every document to the added respondent No.8 (Arup Saha). Necessary receipts and declarations, shall be given to the police authorities by both the parties.

The rights of the parties with regard to the estate of the deceased have not been gone into. Both the parties shall be at liberty to approach the appropriate forum and also the appropriate authorities including the bank authority with regard to their respective claims/counter claims with regard to the property 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.)