

19.07.2022
Item No.01
Court No.18
AJ.

C.O. 2664 of 2019

Ganoda Ghosh
-Vs-
Minor Aditya Ghosh & Ors.

Mr. Rwitendra Banerjee,
Mr. Shibasis Chatterjee.
.....for the petitioner.

Mr. Partha Pratim Roy,
Mr. Sarbananda Sanyal,
Mr. Dyutiman Banerjee.
.....for the opposite parties.

On the consent of the learned counsel for the parties, the revisional application is taken up for final disposal although it is appearing in the list under heading "To Be Mentioned".

The daughter-in-law of the petitioner, the opposite party no. 3 herein, has been charged with an offence of committing murder of her husband. The said son of the petitioner was an employee of the Kolkata Police.

The revisional application is arising out of a proceeding for grant of a Succession Certificate in respect of the service benefits of the said deceased son of the petitioner, applied for by the said daughter-in-law and grandchildren of the petitioner.

The petitioner has filed a suit for declaration that her said daughter-in-law since has been charged with the offence of murder, is disqualified under Section 25 of the Hindu Succession Act, 1956 from inheriting any of the service benefits of her deceased son.

The petitioner in the said proceeding for grant of succession certificate being Miscellaneous Succession Case No. 39 of 2012 pending before learned District

Delegate, Berhampore, District- Murshidabad filed an application under Section 10 of the Code of Civil Procedure praying stay of all further proceedings of the said Misc. case till the disposal of the said suit.

The learned Trial Judge by the impugned order no. 42 dated May 30, 2019 has dismissed the said application.

Mr. Partha Pratim Roy, learned counsel for the opposite parties submits that to expedite the disbursement of the monies lying with the employer of the deceased son of the petitioner, instead of the opposite party no. 3, one of the grandchildren of the petitioner, the opposite party no. 1 herein, since has attained majority during the pendency of the present revisional application, can apply for grant of such certificate for self and other heirs of his deceased father, who are not under any disqualification, and in doing so can recourse to the provisions of Sections 373(4) and 375 of the Indian Succession Act, 1925.

It is always open for the parties to take the said steps, if available to them under the law but such drill is required to be made before the learned Trial Judge.

C.O. 2664 of 2019 is disposed of with the above observations without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)