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Ct-08

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FAT 473 of 2016

with

I.A No. CAN 3 of 2022

Kartick Chandra Das

Vs.

Deb Kumar Ghosh

Mr. Souradipta Banerjee

Ms. Fatima Hassan

.... For the Appellant

Mr. Abdul Hadi

.... For the Respondent/Applicant

This appeal is at the instance of one of the executors, who had opposed the prayer for grant of probate and did not join with the other executor, Kartick Chandra Das, in filing the application for grant of probate before the learned trial court.

The applicant has now agreed to join with Kartick Chandra Das, the other executor named in the Will in the probate proceeding.

The respondent/applicant, Deb Kumar Ghosh, is also a beneficiary in the Will.

In view of such changed circumstances, we set aside the judgment and decree dated 13th July, 2016 passed by learned Judge, Bench-3, City Civil Court, Kolkata in O.C Case No. 10 of 2012 and request the learned trial judge to reconsider the application for grant of probate in accordance with law.

It is submitted on behalf of the parties that other legal heirs, who would have otherwise succeeded to the estate of the deceased, had not opposed the grant of probate in spite of citation. We, however, request the learned trial judge to take such factor into consideration in disposing of the probate application as expeditiously as

possible.

In view of the above, the appeal along with the application being CAN 3 of 2022 are disposed of.

The department is directed to send the L.C.R to the trial court.

(Ajoy Kumar Mukherjee,J.)

(Soumen Sen, J.)