

21.09.2022
Item No. 08
Court No.6.
S. De

M.A.T. 1513 of 2022
with
I.A. No. CAN 1 of 2022
I.A. No. CAN 2 of 2022

Rina Saha.
Vs
Provat Kumar Sanyal & Ors.

Mr. Debabrata Roy,
Mr. Asim Kr. Chakraborti,
Mr. Sarthak Burman,
...for the appellant.
Mr. Swapan Kr. Mazumdar,
...for the respondent no.3.
Mr. Tulsi Das Maiti,
Mr. Pradip Kumar Ghosh,
...for the writ petitioner/
respondent no.1.
Mr. Sudipto Panda,
Mrs. Ruma Halder,
...for the State.

Affidavit-of-service filed in Court be kept with
the records.

In re : I.A. No. CAN 2 of 2022

The present appeal has been sought to be filed
by one Rina Saha who was not a party to the writ
petition which was disposed of by the learned Single
Judge by a judgment and order dated August 3, 2022.
Accordingly, Rina has made an application for leave to
appeal. Considering the order sought to be challenged
and Rina's submission, we are of the view that she is
likely to be affected by the order sought to be assailed.

Accordingly, leave is granted to Rina to file the present appeal.

I.A. No. CAN 2 of 2022 is, accordingly, disposed of.

In re : MAT 1513 of 2022 & I.A. No. CAN 1 of 2022.

One Provat Kumar Sanyal approached the learned Single Judge by filing W.P.A. No. 20716 of 2021 contending that he had obtained probate in respect of a will of one Debasish Kumar Sanyal and accordingly, on the basis of such probate, Provat, being the writ petitioner, claimed ownership of the property in dispute. His case before the learned Single Judge was that his application before the Nabadwip Municipality for mutation of the property in his name in terms of the probate, was not being processed.

Learned advocate for the Municipality apprised the learned Judge that objection has been raised by one Rina Saha who is the present appellant.

The learned Judge, however, directed the Nabadwip Municipality to take steps strictly in terms of the probate granted in favour of the writ petitioner and his two sons by the competent Court.

We apparently see no infirmity in the order and hence, we do not interfere with the order.

However, the present appellant says that various material facts were suppressed by the writ petitioner

from the learned Single Judge including the fact that the property in question has already been mutated in the name of the present appellant pursuant to the appellant purchasing the same from another person who claimed ownership on the basis of probate obtained in respect of a will of the original owner. This however is naturally disputed by the learned advocate for the writ petitioner/respondent no.1.

These facts were not before the learned Single Judge. We are not inclined to go into those facts. The appellant will be at liberty to approach the learned Single Judge with an appropriate application in accordance with law placing before the learned Judge what according to the appellant are relevant and material facts which were suppressed by the writ petitioner in obtaining the order dated August 3, 2022. If such application is made, the learned Judge is requested to pass appropriate orders thereon.

The Municipality says that it has conducted a hearing on the basis of the order impugned before us. To grant some breathing space to the appellant, the Municipality shall not take any further step in the matter for a period of four weeks from date. The learned advocate for the writ petitioner shall supply a copy of the writ petition along with annexure to learned advocate for the present appellant in course of tomorrow (22.09.2022).

Since we have not called for affidavits, the allegations contained in the stay application are deemed not to be admitted by the respondents.

MAT 1513 of 2022 is disposed of along with the application being I.A. No. CAN 1 of 2022.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)