

Item-1. 25-08-2022

FAT 358 of 2013

sg Ct. 8

Asoke Nath Chatterjee
Versus
Sova Rani Chatterjee, since deceased,
represented by her legal heirs
Debnath Chatterjee, respondent no.2

Ms. Shebatee Datta, Adv.

... for the appellant

The appellant filed a suit for grant of probate in his favour. He was the sole beneficiary under the Will. However, the Will does not mention any executor. In the absence of any named executor, Asoke Nath Chatterjee ought to have filed an application for Letters of Administration on the basis of the Will. On the ground of such procedural defects, the suit was dismissed.

We feel that the trial court should have converted the said proceeding to Letters of Administration instead of dismissing the suit. The Will was never disputed by the other legal heirs nor they did object to grant of Letters of Administration in favour of Asoke Nath Chatterjee. The Will was also otherwise proved. Asoke Nath Chatterjee died intestate as bachelor on 19th March 2020 leaving behind his legal heirs and representatives being the respondent no.1, the widow of his pre-deceased brother and the respondent no.2, being the brother. In view thereof this appeal was abated.

There are other heirs of the testatrix who have not contested the probate proceeding.

Under such circumstances, the appeal stands dismissed as abated.

The death certificate of Asoke Nath Chatterjee produced in

Court is taken on record.

LCR may be send down to the learned Court below.

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)