

Form J(1)

**IN THE HIGH COURT AT CALCUTTA
Criminal Revisional Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

C.R.R. 1102 of 2021

***Nabin Das & Anr.
Vs.
Subhra Das (Bakshi) & Anr..***

**For the petitioner : Mr. Partha Sarathi Das,
Ms. Shanta Sarkar,**

**For the O.P.No.2 : Ms. Parna Roy Choudhury,
Ms. Payel Ghosh**

Judgment On : 15.09.2023.

Bibek Chaudhuri, J.

The Punjab National Bank has submitted a report. Let the report be kept with the record.

Petitioners have also filed a supplementary affidavit.

Let the supplementary affidavit be also kept with the record.

A very short question is involved in the instant criminal revision, i.e. after the death of one of the co-sharers whether proportionate rent would be paid to his erstwhile wife who has married for the second time.

Indisputably, one Gopal Krishna Das, since deceased, was the husband of the opposite party No.1, Subhra Das. During the lifetime

of Gopal Krishna , Subhra Das filed an application under Section 125 of the Code of Criminal Procedure and the said application was allowed.

The petitioner who is the opposite party No.1 herein, put the said order passed under Section 125 of the Code of Criminal Procedure in execution which was registered as Mis-Execution No.95(IV) 2013.

In the said execution case, the learned Judicial Magistrate, 3rd Court at Ranaghat passed the following order on 4th March, 2021 :-

“It appears that this Court directed manager of UBI, Taherpur not to pay rent to the OP and directed to pay the apportioned portion of rent to petitioner Subhra Das. It is also apparent that the case is dropped after full realisation on 12-04-2017 against the OP, Gopal Krishna Das.”

The petitioners are the elder brother and sister of the said Gopal Krishna Das, since deceased.

They have prayed for a direction upon the United Bank of India, now Punjab National Bank for payment of the portion of the rent which they are entitled as per the law of inheritance.

From the submission made by the learned Counsels for the parties, another fact came to the notice of this Court. Gopal Krishna Das in the meantime died and his wife Subhra Das, married for the

second time to another person. Therefore, since the date of second marriage of Subhra Das, she is not entitled to get proportionate rent which Gopal Krishna was entitled.

In order to clarify the position it is pertinent to record that the subject property which is under the possession of Punjab National Bank was originally owned by one Nandalal Das Nandalal who died leaving behind his two sons namely Nabin Das (petitioner No.1) and Gopal Krishna Das, since deceased and one daughter, namely, Sikha Das. They inherited the said property in equal $1/3^{\text{rd}}$ share.

Now Gopal Krishna died and his wife Subhra has married for the second time. Therefore, Subhra is not entitled to get the share of Gopal Krishna after her second marriage. Moreover, Gopal Krishna executed a deed of gift during his lifetime on 18th November, 2011 in favour of his sister Sikha . Therefore, at present, Nabin inherits $1/3^{\text{rd}}$ and Sikha inherits $2/3^{\text{rd}}$ share in the property left by Nandalal.

In view of such circumstances, the opposite party No.2, Branch Manager, United Bank of India, now, Punjab National Bank is directed to pay proportionate rent as per the share of petitioner Nos.1 and 2 declared hereinabove forthwith.

It is submitted by the learned Advocate for the bank that the Bank had kept the arrear rent in the suspense account and it can disburse account to the petitioners as per direction of this Court.

In view of such circumstances, the opposite party No.2 is directed to pay proportionate arrear rent accumulated in the suspense account of the Bank to the petitioners. The Bank shall also go on paying the proportionate rent to the petitioner within 7 of each succeeding English Calendar month.

The instant criminal revision is, thus, disposed of.

(Bibek Chaudhuri, J.)

***Mithun
A.R. (Ct).
SI No.44.
D/L.***