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FMA/1043/2022
IA NO: CAN/1/2022, CAN/2/2022
SEKHAR CHANDRA BANERJEE @ SEKHAR
BANERJEE AND ORS.
VS
THE STATE OF WEST BENGAL AND ORS.

Mr. Subir Kumar Bhattacharyya
..for the Appellants.

Mr. Tarak Karan
..for the State.

Ms. Pampa Dey Dhabal,
Mr. Ashok Kumar Janah,
Mr. Krishna Deo Das,
Mr. Nikhil Kumar Gupta
..for the Applicant.

This intra court appeal is at the instance of the appellants (writ petitioners) challenging the order of the learned Single Judge dated 7th June, 2022 passed in WPA 7199 of 2021 whereby the learned Single Judge had disposed of the petition with a direction to the Commissioner of Police, Kolkata to take a reasoned decision on the appellants representation/letter dated 20th January, 2021.

The appellants had approached the Writ Court with the plea that Smt. Rupa Chatterjee @ Chattpadhyay, daughter of late Arun Kumar Chatterjee and late Madhuri Chatterjee, during her life time was residing at Flat No.2, Ground Floor, P-25, CIT Scheme, Gariahat Road (South), Police Station-Lake, Kolkata.

She had suffered unnatural death on 21st June, 2018. Further plea was raised that the parents of Smt. Rupa Chatterjee were pre-deceased and the appellants were the close relatives and legal heirs of Rupa Chatterjee being the maternal uncle, aunts and daughters of the maternal aunts etc. and in that background, a prayer was made in the writ petition to issue a direction to the official respondents to hand over the keys of above flat.

Learned Single Judge while passing the impugned order had reached to the conclusion that there was nothing on record to show that the investigation into the death of late Rupa Chatterjee was concluded. Learned Single Judge had also noted that the petitioners were claiming to be only heirs of the deceased and had reached to the conclusion that the prayer in the writ petition could not be allowed at that stage.

In the present appeal CAN 2 of 2022 has been filed by one Amit Kumar Chatterjee claiming himself to be one of the legal heirs of the deceased Rupa Chatterjee. The claim of Amit Kumar Chatterjee is that he is the son of Lal Mohan Chatterjee i.e. the brother of Arun Kumar Chatterjee, who was the father of deceased Rupa Chatterjee.

Before this Court rival claims have been raised by different persons claiming themselves to be the near

relatives and legal heirs of deceased Rupa Chatterjee. Such a claim cannot be decided by the police authorities or by this Court while exercising the jurisdiction under Article 226 of the Constitution of India. For adjudication of such a dispute, proper remedy available to the parties is to approach the Civil Court of competent jurisdiction and establish their right.

Hence, we modify the order of the learned Single Judge to the extent indicated above and dispose of the present appeal granting liberty to the parties to approach the competent Civil Court.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)

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