

06.07.2023.
Item No. 4.
Court No. 13
ap

F.A.T. No. 306 of 2009
Chandra Mohan Saha @ Chandan Kumar Saha & Ors.
Versus
Monoranjan Saha & Ors.

Mr. Gour Baran Sau,
Mr. Arshad Hussain.

...For the Appellants.

Mr. Falguni Bandyopadhyay,
Mr. Debabrata Mondal,
Ms. Sreetama Neogi.

...For the proforma respondent nos.1 & 2.

1. The instant appeal is directed against the judgment dated 29th April, 2009 passed by the learned District Judge, Malda in O.C. No. 4 of 2001. Letters of administration were granted to the beneficiaries of a Will dated 11th August, 1986 executed by one Late Surendranath Saha. The said Surendranath Saha had eight sons and two daughters. Under the Will, he had bequeathed his entire assets to two of his sons and excluded all the other children.
2. The appellants before this Court challenging the decree of letters of administration, are the excluded children.
3. This Court has very carefully considered the judgment of the Court below. The entire evidence has been carefully scrutinized.
4. The Court below found that the evidence of PW-1 to PW-6 produced in support of the Will was sufficient

evidence to remove any suspicious circumstances in execution of the Will.

5. Mr. Nishi Kanta Goswami (PW-1) is the lawyer who prepared the Will on the instructions of the testator. Mr. Manabendra Pal Chowdhury (PW-2) was one of the Clerks of the said Lawyer and also a witness to the Will. Paresh Chakraborty (PW-3) was another Clerk working with the said lawyer. Pradip Chowdhury (PW-4) was a Court employee, who signed the Will as attesting witness and also went to the Registry Office and identified the testator. Mr. Monoranjan Saha (PW-5), brother of one Uttam Kumar Saha, who was a beneficiary of the Will.

6. The testimony of the witnesses were carefully considered and analyzed by the Court below. On the part of the appellant/defendants, there were two witnesses, namely, Chandra Mohan Saha and Bidyut Biswas. There were other witnesses.

7. The principal defence of the appellants in the Court below was a Salishnama/Solenama dated 5th April 1994 in O.C. 90 of 1986. The said Salishnama/Solenama was relied upon by the appellants to indicate that the deceased had distributed his properties thereunder and allowed his sons and daughters to reside in the dwelling house.

8. The Court below found that the said document cannot, in any way, throw any suspicious on the

execution of the Will. It is clear before this Court that the solenama (Terms of Settlement) was in respect of a business between Chandra Mohan Saha and Ors. Vs. Monoronjan Saha. There is no mention of any of the personal properties of the deceased Surendranath Saha in the solenama.

9. The Court below found that the Will was executed by the testator in sound mind and there was no reason to doubt the same. The letters of administration have been granted by the Court below by reason of the judgment and decree impugned.

10. This Court finds that there is absolutely no infirmity whatsoever in the conclusion arrived at by the Court below. The judgment is well reasoned and based on the evidence that has come on record. All relevant requirements of the Indian Succession Act have been addressed by the Court below.

11. Hence, the impugned judgment dated 29th April, 2009 passed in O.C. No. 4 of 2001 does not call for any interference by this Court.

12. In view of the aforesaid, F.A.T. No. 306 of 2009 shall stand dismissed.

13. Interim orders, if any, shall stand vacated.

14. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(*Supratim Bhattacharya, J.*)