

M/L 4
06.02.2023
Court. No. 19
GB

W.P.A. 27112 of 2022

Abhijit Mondal
VS
The State of West Bengal & Ors.

*Mr. Soumen Bhattachjee,
Mr. Amal Kumar Datta*

...for the Petitioner.

*Mr. Molay Kr. Singh,
Mr. Tapas Ballav Mondal*

...for the State.

*Mr. Sudipta Dasgupta,
Ms. Dipa Acharyya*

...for the Respondent No.7.

The petitioner alleges that the Pradhan of Dighirpar gram panchayat did not have any authority and competence to issue a legal heirship certificate in favour of the respondent no.7. The petitioner claims title in respect of the property in question through a registered will. The will has been probated.

It is true that a legal heirship certificate issued by the Pradhan does not create any right, title and interest. The document of legal heirship is only a certificate issued by an authority based on his knowledge that a deceased had left behind heirs and legal representatives.

Such legal heirship certificate is often required for some official use but the same is not a document of title. The Pradhan cannot declare title of any person. It can only be used for some official purpose, when there are no controversies with regard to right, title and interest between the heirs of

the deceased. Disputes with regard to title and possession have to be decided by a civil court.

It appears that the Pradhan issued a declaration, inter alia, stating that Anita Mondal, wife of Late Sanat Kumar Mondal was the legal heir of the deceased as per the knowledge of the Pradhan. Such declaration was issued by the Pradhan before the probate was granted in respect of the Will. The probate was granted in favour of the petitioner on June 29, 2019.

Thus, the Court does not find any controversy in this matter with regard to the declaration given by the Pradhan because such document can neither be a document of title nor a document to be relied upon by the respondent no.7 if her right, title and interest is challenged in any proceeding.

Although, the respondent no.7 submits that the probate has been stayed by a superior court and there is also an allegation of forgery, neither this Court nor the panchayat authorities are in a position to either adjudicate or decide such dispute. The petitioner denies that the order of probate has been stayed.

If the petitioner has any grievance that on the basis of such declaration by the Pradhan, certain authorities or departments had recognized the respondent no.7 as the sole heir of the deceased, in that event the petitioner will be at liberty to file his objection before the appropriate forum/fora in accordance with law at the appropriate stage.

A probate is a declaration that the will had been validly executed. The same is not akin to a declaration of

title. The petitioner is at liberty to take recourse to appropriate proceedings in case his title has been either clouded or denied by the respondent no.7 on the basis of the certificate of the Pradhan.

This order shall not be considered as an observation of the court, either on the civil proceedings or on the investigations which are going on.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)