

IA No. GA 1 of 2023
APOT No. 360 of 2023
with
PLA No. 9 of 2010
IN THE HIGH COURT AT CALCUTTA
In appeal from its
TESTAMENTARY & INTESTATE JURISDICTION
CIVIL APPELLATE JURISDICTION

In the goods of:
Binapani Das (Deceased)
And
In the matter of:
Smt. Snigdha Dutta
Versus
Sunand Prosad Shaw

Before:
The Hon'ble Justice I. P. MUKERJI
And
The Hon'ble Justice BISWAROOP CHOWDHURY
Date: 22nd November 2023

Appearance:
Mr. Bidyut Kr. Banerjee, Advocate
for the appellant
Mr. Debasish Chattopadhyay, Advocate
Mr. Loknath Paul, Advocate
Mr. Tirthankar Basu, Advocate
for the respondent

The Court: We admit the appeal.

We find no merit in this appeal.

The impugned judgment and order dated 30th August 2023 has been rightly passed holding that the appellant/intending transferee in an agreement for transfer between the her and the testatrix Binapani Das did not create any caveatable interest in favour of her to contest the application for grant of probate of the last Will and testament of Binapani Das.

Assuming that the appellant is a bona fide intending transferee under an agreement to transfer, her rights, if any, to enforce the agreement remain against the executor or the beneficiary of the said Will in case the will is probated and against her legal heirs and representatives in case the application for grant of probate fails.

With the above observations we dismiss the appeal and the connected application.

We make it clear that we have not gone into the rights and liabilities of the parties, save and except what is decided by us by the reasons given above.

As no affidavits were invited, allegations contained in the stay application are deemed to have not admitted.

(I. P. MUKERJI, J.)

(BISWAROOP CHOWDHURY , J.)

R. Bose