

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Appeal No.184 of 2018

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1. Prabhash Kumar Singh, S/o Late Lakhan Lal Singh
 2. Rajesh Kumar Singh S/o Late Lakhan Lal Singh
 3. Smt. Arun Mala Singh @ Arun Mala Singh, W/o-Shree Anil Singh, D/o-Late Lakhan Lal Singh
 4. Smt. Sunita Singh W/o-Shree Pratap Singh, D/o-Late Lakhan Lal Singh, All Resident of Village- Kusaha, P.S.-Sambhuganj, P.O.-Gulni, District-Banka.

... .. Appellant/s

Versus

1. Amit Kumar Singh, S/o Anil kumar Singh, Resident of Gulni Kusaha, P.S.-Shambhuganj, P.O.-Gulni Kusaha, District-Banka.
2. Smt. Pinky Singh, Widow of Late Subhash Chandra Singh
3. Sanny Kumar Singh, S/o Late Subhash Chandra Singh
4. Saurabh Kumar Singh, S/o Late Subhash Chandra Singh, All Resident of Village-Kusaha, P.S.-Sambhuganj, P.O.-Gulni, District-Banka
5. State Bank of India, Bhagalpur City Branch, Bhagalpur through its Manager

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Diwakar Upadhyaya with Ms. Preety Kunwar, Advocates
For the Respondent no. 5	:	Mr. Ankit Katriar, Adv.

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

11 30-01-2024 Heard learned counsel for the appellants and learned counsel for the respondents.

2. This Miscellaneous Appeal has been preferred against the judgment and order dated 09-11-2016, passed in Letter of Administration, Case No. 38 of 2005, passed by learned *Ad hoc*, Additional District Judge- I, Banka (hereinafter referred to as ‘the learned Court below’), whereby the learned Court below has disposed of the application of the appellants filed for issuance of



Letter of Administration with respect to the Bank locker of deceased Lakhan Lal Singh with an observation that applicants-appellants are liberty to file petition under the Indian Succession Act, 1925 (for brevity 'the Act').

3. A petition under Section 278 of the Act for grant of Letter of Administration in respect of locker bearing No. 12B in State Bank of India, Bhagalpur, City Branch, (for brevity 'the Bank') in the name of late Lakhan Lal Singh has been filed.

4. In brief, the fact as stated, that deceased Lakhan Lal Singh, who was father of appellant nos. 1 to 4 and father-in-law of respondent no. 2 and grandfather of respondent nos. 3 and 4, died on 04-06-2000 at village- Kasba, PS Sambhuganj, District Banka. The appellants as well as respondent Nos. 2, 3 and 4 are the only alive relatives of the deceased Lakhan Lal Singh and there is no other legal heir of the deceased.

5. It is stated that since the deceased has not left behind any Will in respect of his assets, movable and immovable property, the appellants as well as respondent Nos. 2, 3, and 4 are Class- I heirs and successors of late Lakhan Lal Singh. Respondent No. 1, namely, Amit Kumar Singh is the maternal grandson of late Lakhan Lal Singh. It is further pleaded that the deceased Lakhan Lal Singh could not disclose regarding the contents of the said locker and has also not left behind any paper to the knowledge and information of the appellants regarding the contents of the locker,



and as such, contents of the locker has tentatively described in the plaint/application. It is further submitted that appellant nos. 1 to 4 and respondent nos. 1 to 4 had given consent and had no objection for the grant of Letter of Administration only in the name of Rajesh Kumar Singh (appellant no. 2). Appellants filed application for Letter of Administration in favour of Rajesh Kumar Singh (appellant no. 2). All the heirs appeared before the learned Court below, and on 10-02-2009, appellant no. 4, namely, Sunita Singh, (witness no. 1), was examined in Court. Similarly, on 08-04-2009, appellant No. 3, namely, Smt. Arun Mala Singh @ Arun Mala Singh (Witness No. 2) was examined. On 15-04-2009, respondent no. 2, namely, Pinky Singh, (Witness No. 3) was examined; on 06-05-2009, appellant no.1, namely Prabhash Kumar Singh (witness no.4) was examined likewise appellant no.2, namely, Rajesh Kumar Singh (witness no. 5) was examined. Respondent no.1, namely, Amit Kumar Singh (Witness No.1 for Opposite Party) was examined on 11-03-2010. All the witnesses have stated that they have no objection if the Letter of Administration is issued in favour of Rajesh Kumar Singh. It is further submitted that respondents nos. 3 and 4, namely, Sanny Kumar Singh and Saurabh Kumar Singh, respectively, were minors at the time of filing of the case and were under the guardianship of their mother, namely, Smt. Pinky Singh, and now they have become major.

6. Learned counsel for the Appellants submits that on



25-05-2010, the learned Court below directed the Branch Manager of the Bank to open the said locker and submit his report regarding value of articles kept in the locker so that the court fee can be paid. On 13-12-2010, the Bank submitted its valuation report in the court with letter No. 38/174 dated 01-12-2010 and the same is kept on record. The matter was transferred to Additional District and Session Judge, Banka on 29-03-2016, and on 09-11-2016, the application of the appellants was disposed of without issuing a Letter of Administration. Learned counsel for the appellants submits that *Ad hoc* Additional District Judge has failed to exercise its jurisdiction by not granting Letter of Administration. It is submitted that learned *Ad hoc* Additional District Judge has failed to consider that no fresh proceeding is required under the Act for issuance of Letter of Administration in the present facts and circumstances of this case. Learned Court below has declined to issue the Letter of Administration regarding the articles put in the locker. This is how the present Miscellaneous Appeal has been filed.

7. The question which arises for determination is whether the succession certificates is necessary to be obtained for having access to valuables lying in the Bank's locker. This aspect has been settled by the different High Courts, including this High Court.

8. In this regard, reference may be made to the view



expressed by this Court in the case of *Shyam Sundari Devi Vs Sarti Devi* reported in *A.I.R, 1962, Pat 220*. This court has taken a view that succession certificate is not to be, granted qua articles which are lying in the locker, of a Bank. See also the view expressed by Calcutta High Court in the case reported as *Assam Bengal Railway Co. vs. Atul Chander, A.I.R., 1937 Cal 314*.

9. The requirement to have a succession certificate vis-a-vis articles lying in the Bank's locker is not envisaged by Section 370 of the Indian Succession Act. In the case of *Adarsh Ratan (Col.) vs. State Bank of India, Jalandhar* reported in *A.I.R. 1987 P&H 232*. In the above case, it has been held that it is not necessary to obtain succession certificate and if there is a dispute, then the parties can get the matter settled by approaching the civil court. In the present case, the identity of the heirs of late Lakhan Lal Singh stands duly established and identified. In this view of the matter, even though the view taken by the court below that Letter of Administration is not for present purpose since the value of the articles has already been ascertained, and further held that each heirs have a right as per the succession. In this case, the requirement of succession certificate, as indicated by the learned lower court, is not required to be gone into.

10. The testimonies of PW-1, PW-2, PW-3 , PW-4 &



PW-5 remain unrebutted, uncontroverted and uncontested as no public person came forward towards the present petition and there is other respondent who supported the case of the appellants. The identity of heirs of late Lakhan Lal Singh is fully established.

11. Considering all aspects of the matter and on analysis of the above reported judgment, I am of the view that succession certificate could not be required for access to Bank locker for articles which are lying in locker of the Bank. Access to locker and the ornaments kept inside it, do not fall within the list as enshrined under Section 370(2) of the Act.

12. Accordingly, the impugned judgment and order dated 09-11-2016, passed in Letter of Administration Case No. 38 of 2005, by the learned *Ad hoc* Additional District Judge-I Banka, is hereby set aside. This Miscellaneous Appeal stands allowed.

13. Considering the provision of law and the citation mentioned above, this court is of the view that appellant no. 2 be granted the Letter of Administration in respect of movable property of the deceased lying in the locker No. 12B being in the State Bank of India, Bhagalpur City Branch, after obtaining requisite court fee and administration-cum- surety bond, according to the valuation report submitted in the Court vide



Letter No. 38/174, dated 01-12-2010. The learned Court below is directed to issue Letter of Administration. The formality of issuance of Letter of Administration shall be completed by the Appellant No. 2 within a period of two months.

(Khatim Reza, J)

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