

March 12, 2024
Sl. No.19
Court No.19
s.biswas

CO 1896 of 2023

Smt.Abha Mondal
vs.
Sri Dulal Mondal and another

Mr. Gopal Chandra Ghosh
Ms. Sunandana Saha

... for the petitioner

Ms. Shohini Chakraborty
Ms. Prajaaini Das

... for the opposite party no.1

This revisional application arises out of an order dated March 31, 2023, the learned Civil Judge (Senior Division), 4th Court at Alipore in Title Suit No.111 of 1992.

One Swapan Mondal was the executor of the will of Bijoy Mondal, who died testate. The executor of the will namely Swapan Mondal was contesting. Thereafter the will was probated and Abha Mondal, the petitioner herein, became the legatee. Accordingly, an application was filed for deletion and/or expunging the name of Swapan Mondal, the executor. The learned court was of the view that as the carriage of proceedings was in the hands of the plaintiff, Swapan Mondal should not have filed the application for deletion of his name.

The court further found that Abha Mondal was already contesting as defendant no.1(a) and as such no order was required to be passed on the said application.

Ms. Chakraborty, learned advocate for the plaintiff/opposite party no.1, submits that Abha Mondal was already on record and the application was redundant.

Having considered the rival contentions of the parties, this court is of the view that there was no requirement for Swapan Mondal to continue with the suit as the sole executor of the will of the defendant no.1 late Bijoy Mondal, as the will was probated.

Accordingly, Swapan Mondal be deleted from the array of the cause title of the suit and Abha Mondal be allowed to continue as the sole heir of the deceased defendant no.1.

As the suit is of 1992, this court directs that the suit should be disposed of within a year.

The revisional application stands disposed of accordingly.

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

Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Shampa Sarkar, J.)