

04.07.2024
Item No.07, DL
Ct.19
A.J.

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION**

C.O. 2299 of 2024

Kesobala Roy & Ors.

-Vs-

Akhil Chandra Roy & Ors.

Mr. Gaur Baran Sau.

.....for the petitioners.

The instant application under Article 227 of the Constitution of India is directed against Order No.47 dated February 03, 2024 passed by the learned District Judge, Malda in O.C. Suit No. 01 of 2018.

The opposite party nos.1 and 2 being the named executors of the alleged last Will and Testament of one Ramnath Roy dated July 27, 1993 has applied for grant of probate of the said Will.

The petitioners are the daughters of the Testator; they have objected to the said grant, as such, the proceeding has become contentious.

The petitioners had filed an application under Order XXVI Rule 10A of the Code of Civil Procedure for scientific investigation of the paper and ink used in writing of the said Will, alleging that those are relatively new in comparison to the age of the Will.

The learned Trial Judge, by the order impugned, has dismissed the said application.

The petitioners are objecting to the grant on the ground that it was never executed by their father.

The age of the paper and ink used in writing of the Will may not have relevance in sustaining the aforementioned objection inasmuch as there is a possibility that those materials were produced much prior to the execution of the said Will.

The learned Trial Judge, upon appreciation of such a situation, has refused to exercise his discretion to allow the prayer of the petitioners.

This Court does not find any reason to interfere with the exercise of such discretion as it has not been exercised arbitrarily or capriciously.

The order impugned, therefore, does not call for any interference.

C.O. 2299 of 2024 is thus dismissed without any order as to costs.

Urgent Photostat certified copies of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Biswajit Basu, J.)