

07.10.2024
Court No.13
Item No. 62-63

sp

F. A. 216 of 2022
IA No:CAN 1 of 2016(Old No. 8771 of 2016)

Anjan Kumar Sett

Vs.

Mrs. Minaki Kundu @ Menaki Kundu

With

F. A. 217 of 2022

Mr. Jishnu Saha, Sr. Adv.

Ms. Rajshree Kajaria,

Mr. Ishan Saha,

Mr. Uttam Sharma

Ms. Vrinda Kedia

... for the appellant.

Mr. Uttam Kumar Bhattacharyya

... for the respondent.

1. Learned counsel for the respondent has admitted before this Court today that his client has not filed any accounts in last 8 years since her appointment. It is also submitted that she was unable to take any steps or administer the property till date. The reason attributed therefor is the obstruction by the appellant. There is no document produced before this Court by the respondent to suggest any such obstruction by the appellant.

2. This Court deprecates the conduct of the respondent in failing to carry out her responsibility as an administrator appointed by the trial Court. The inordinate delay in pursuing the appeal and taking steps against the respondent in the Court below by the appellant is equally deplorable.

3. However, in view of the observations made in paragraph no. 4 of the order dated 3rd October, 2024, this Court is of the view that interest of justice would be served and enure benefit to all

parties, if an independent third person is appointed administrator by this Court.

4. Let Mr. Anujit Mookherjee, advocate and Mr. Saswat Nayek, advocate of this Court be appointed as Joint Administrators in place and stead of the respondent, in respect of the Will and testament of late Hemangsu Sett dated 5th June, 1991.

5. The Administrators appointed above, shall complete the process of administration and issue ascent of legacy to all beneficiaries under the Will.

6. If the parties agree to an amicable partition of the property, they may submit a joint proposal and the Administrators appointed herein may submit a report to that effect to the trial Court.

7. The Administrators appointed above shall receive unqualified cooperation from the appellants as well as the respondent.

8. It is expected the process of administration is completed within a period of 3 months from date. The Administrators appointed by this Court shall be entitled to remuneration of Rs. 50,000/- each per month, to be equally shared by the parties.

9. The parties shall be liable for contributing to the maintenance and upkeep of the estate during the pendency of the administration in proportion to the benefit they have received under the Will.

10. In view of the conduct of both the appellant and the respondent as recorded hereinabove, they shall pay costs to the

extent of Rs. 11,000/- each to the High Court Legal Services Authority.

11. F.A. 216 of 2022 and F.A. 217 of 2022 shall stand disposed of.

12. In view of the above, connected applications, if any, shall also stand disposed of.

13. Let the T.C.R. be returned, if any, to the Court below.

14. The registry shall communicate a copy of this order to the Court below.

15. All parties shall act on the server copy of this order duly downloaded from the official website of this Court

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)