

17
28.7.2025
Ct. No. 16
SB

FA 46 of 2021
CAN 6 of 2025 (Injunction)

Pradip Kumar In Place of Brojendra Nath Mondal (Since deceased)
Vs.
Smt. Jayanti Bose

Mr. Ganesh Prasad Shaw For the appellant

Mr. Manas Malakar
Ms. Sushmita Datta for the respondent

1. The appellant claimed to be one of the joint executors of the last Will and Testament of one Siddhartha Ghosh, since deceased in respect of a Will dated 12.6.2017. Sri Siddhartha Ghosh died on 23.9.2017. Initially, Brojendra Nath Mondal who was one of the joint executors filed application for grant of probate on 16.5.2018 and was registered as Probate Case No. 36 of 2018. After filing of the probate case Brojendra Nath Mondal died and thereafter the present appellant who is one of the joint executors came to learn that the respondent has filed an application for succession certificate. It appears that it is not in dispute that probate proceeding has been marked as a contentious cause. The probate matter was, however, dismissed for default on 28.2.2023.
2. The application for restoration of the said probate proceeding is still pending. The said application was filed within the period of limitation. It was during such period, it is claimed that respondent had on the basis of the succession certificate dealt with some of the properties. In the event, the last Will and Testament of the deceased etc. is established and if the respondent is not a beneficiary contemplated under the said

Will then any such dealing with the properties would not only affect the third parties but also the respondent who is contesting the probate proceeding.

3. Under such circumstances, we dispose of the application and the appeal by confirming the interim order passed on 18.6.2025 till the disposal of the probate proceeding.
4. We have been informed that the probate proceeding is otherwise ready for hearing. The application for restoration and addition of party on the ground that the appellant is one of the joint executors are deemed to have been allowed in view of our aforesaid direction.
5. Learned Probate Court is directed to make a time-frame for completion of procedural formalities, if any, and trial. The parties are directed to strictly adhere to the said timeline and the learned Trial Court shall not adjourn or deviate from the said timeline unless there are compelling circumstances.
6. The order granting succession certificate is stayed till the conclusion of the probate proceeding and shall abide by the result of the proceeding.
7. With the aforesaid direction, the appeal and the application are disposed of without any order as to costs.
8. Trial Court Record shall be sent down within seventy hours from date by a special messenger. The cost and expenses shall be deposited by the appellant by tomorrow (29.7.2025).

(Soumen Sen, J.)

(Apurba Sinha Ray, J)