

Court No. 6
(265719)

04.09.2025
(AD 12)

(S. Banerjee)

CO 2969 of 2025

In the matter of:
Damayanti Mukherjee nee Ghoshal & Anr.

Mr. Buddhadev Ghoshal, Sr. Advocate
Ms. Ankita Mondal

...for the petitioners

Mr. Ayan Banerjee
Ms. Debasree Dhamali

...for the State

This application under Article 227 of the Constitution of India is at the instance of the applicant in a proceeding for grant of Letter of Administration of the assets of Rabindra Nath Ghosal and Subhra Ghosal, both since deceased, and is directed against an order dated May 16, 2025 passed by the learned Civil Judge (Sr. Division), 1st Court at Howrah in LOA No. 6 of 2020.

By the order impugned, the petitioners were directed to take necessary steps after observing that the petitioners did not apply for inventory of the locker and no inventory report was submitted before the court till that date.

Mr. Ghoshal, learned Senior Advocate appearing for the petitioners places reliance upon the provisions laid down under Section 317 of Indian Succession Act, 1925 and submits that the question of inventory shall arise only after the grant of Letter of

Administration, without annexing copy of the will, and not prior thereto. He submits that this proceeding for issuance of the Letter of Administration is without the copy of the will being annexed. He further places reliance upon a decision of the Hon'ble Division Bench of the Madras High Court in the case of ***Dr. R. V. Venkatesan –Vs.- D. Jenbagalakshmi***, reported at AIR 2012 Madras 94 in support of his contention that the court while deciding the grant of Letters of Administration, would not go into the question of title.

Mr. Ghoshal, learned Senior Advocate, on instruction, submits that the Collector, Howrah has been duly served.

Heard Mr. Banerjee, learned advocate representing the Collector, Howrah on such submission.

Section 317 of the Indian Succession Act, 1925 states that *an executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the court which granted the probate or letters may appoint, exhibit in that Court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character; and shall in like manner, within one year from the grant or within such further time as the*

said court may appoint, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

Upon a reading of Section 317 of the said Act it is evident that the question of inventory cannot arise prior to grant of Letters of Administration.

The Hon'ble Division Bench of the Madras High Court in **Dr. R. V. Venkatesan (supra)** held that when a person seeks Letters of Administration under Section 218 of the Indian Succession Act, it is sufficient if the applicant for Letters of Administration alleges that there is a property to be distributed and that he is entitled to whole or part of it and it is not necessary for the court to decide what assets are likely to come to the hands of the applicant for Letters of Administration.

In **Dr. R. V. Venkatesan (supra)** it was held thus:

“A grant of administration does not decide any question of title. It merely decides the right to administer. When deciding the grant of Letters of Administration, the Court would not go into the question of title. When a person seeks Letters of Administration, under Section 218 of Indian Succession Act, it is sufficient if the applicant for Letters of Administration alleges that there is a property to be distributed and that he is entitled to the whole or part of it.

Although it is not necessary for the Court to decide what assets are likely to come to the hands of the applicant for Letters of Administration. Court is duty bound to consider whether there is any estate at all to be administered. Court need to specify whether any property was left by the deceased.”

From the aforesaid discussion it follows that the learned trial judge could not have directed the petitioner to take steps for inventory of the locker at this stage.

For such reason this court is inclined to interfere with the order impugned. The order impugned accordingly stands set aside.

It further appears from the order dated May 16, 2025 that the proceeding for grant of Letters of Administration is at the stage of argument.

Mr. Ghoshal, learned Senior Advocate submits that an affidavit has been filed stating that the petitioner is ready and willing to pay the maximum court fees.

CO 2969 of 2025 stands disposed of by requesting the learned Civil Judge (Sr. Division), 1st Court at Howrah, being the District Delegate, to make an endeavour to dispose of the LOA case No. 6 of 2020 as expeditiously as possible, preferably by the end of the month of January, 2026.

(Hiranmay Bhattacharyya, J.)