

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA  
Civil Appellate Jurisdiction  
Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya  
&  
The Hon'ble Mr. Justice Supratim Bhattacharya

FAT 390 of 2025  
With  
CAN 1 of 2025

Sri Subhasish Lahiri and Anr.  
Vs.  
XXXXXXX

For the appellants : Mr. Prabir Adhya,  
Mr. Amal Banerjee,  
Ms. Madhumanti Chakraborty, Advs.

Heard on : November 18, 2025.

Judgment on : November 18, 2025.

**Sabyasachi Bhattacharyya, J.:**

1. The appeal is taken up for hearing along with the application by dispensing with the trial court records.
2. The proceeding is not adversarial in nature inasmuch as the petitioner no. 2 is the nephew of the deceased and his sole

heir, whereas the appellant no. 1 is a neighbour of the deceased. The deceased testator, by virtue of the Will in question, bequeathed his entire property, movable and immovable, in favour of the present appellants. The appellants were also nominated as executors.

3. The learned District Delegate rejected the probate application since the Will did not mention specifically what are the assets of the testator and no documents to substantiate the properties mentioned in the affidavit of assets were produced by the appellants before the learned District Delegate.
4. By way of the present application under Order XLI Rule 27 of the Code of Civil Procedure, bearing CAN 1 of 2025, photocopies of documents have been annexed which indicate *prima facie* title of the deceased testator to the immovable property as well as the movable property, comprised of bank accounts etc. of the testator.
5. As such, since a probate court is in the nature of a court of conscience and the wishes of the deceased are to be honoured to the utmost, this court is of the opinion that this is a fit case for exercise of its powers under Order XLI Rule 27(1) (b) of the Code of Civil Procedure. As such, we are of the

opinion that the documents sought to be produced are germane for a comprehensive and complete adjudication of the probate application, more so since the probate application was rejected only on the ground that documents in support of the title of the testator to the properties mentioned in the affidavit of assets were not disclosed.

6. Thus, CAN 1 of 2025 is allowed, thereby permitting the appellants to produce the documents mentioned therein in original (or, if the originals are not available, by producing secondary evidence subject to satisfaction of the legal parameters for production of such evidence) as exhibits in the probate case pending before the learned District Delegate.
7. Accordingly, FAT 390 of 2025 is allowed in part, thereby setting aside the impugned judgment and deemed decree dated April 17, 2025 passed by the learned District Delegate at Hooghly in Act XXXIX Case No. 38 of 2022 and remanding the matter to the learned District Delegate for a fresh adjudication of the probate application on merits upon allowing the appellants to produce the additional documents which have been permitted by us in evidence.

8. It is expected that the said exercise shall be concluded by the learned District Delegate as expeditiously as the business of the said learned District Delegate permits.
9. There will be no order as to costs.
10. The parties shall act on the server copy of this order, duly downloaded from the official website of this court.

I agree.

**(Sabyasachi Bhattacharyya, J.)**

**(Supratim Bhattacharya, J.)**

AD-20  
Ct No.16  
18.11.2025  
(SSS)