

50. 16.09.2025
Court No.06.

(Pritam)

CO 3343 of 2025

Kashinath Mondal & Ors.

-Vs.-

Nemai Mondal & Ors.

Mr. Haradhan Banerjee,
Mr. Subroto Ghosh,
Mr. Tanmoy Mukherjee,
Mr. Suresh Kumar Sahoo.

....for the petitioners.

Mr. Kamal Kr. Chattopadhyay,
Mr. Tanjir Ali,
Ms. Rimi Chatterjee.

.....for the defendant/opposite party nos.1 to 16.

1. This application under Section 227 of the Constitution of India is at the instance of the plaintiff and is directed against an order dated April 28, 2025 passed by the learned Civil Judge, Senior Division, 10th Court at Alipore in Title Suit No.93/2014.
2. By the impugned order, the learned trial judge rejected the application for stay of further proceedings of Title Suit No.93 of 2014 on the ground of pendency of a proceeding for revocation of Letter of Administration being O.S. Case No.3/2024. The learned trial judge rejected the prayer for stay on the ground that in the plaint, the plaintiffs have relied upon the registered will of Sital Chandra Mondal whereas, in the application for

stay, they have stated that the will is an unregistered will. It has been further observed in the impugned order that the plaintiffs of the Letter of Administration have relied upon a registered will of late Sital Chandra Mondal.

3. Mr. Banerjee, learned advocate appearing for the petitioners submits that through inadvertence in the plaint as well as other documents, it was mentioned that the Will was a registered will but in fact, it was an unregistered will. Such submission is seriously disputed by the learned advocate appearing for the opposite party nos.1 to 16. He submits that the plaint was filed on the basis of a registered will. He submits that the will referred to in the plaint is a different will. After going through the materials on record, it *prima facie* appears to this court that in the plaint as well as other documents, there is reference of a registered will.
4. However, Mr. Banerjee submits that there is no such registered will. Such a dispute cannot be decided in an application filed under Article 227 of the Constitution of India. A dispute arises as to whether the will is a registered or unregistered one. It will be open to the petitioners to make an appropriate application in that regard before the learned trial judge. If such an application is filed, the learned trial court shall consider the same in accordance with law after giving an

opportunity to the opposite party to file written objection thereto.

5. With the above observations, CO 3343 of 2025 stands disposed of without interfering with the order impugned at this stage.

(Hiranmay Bhattacharyya, J.)