

OD-1

APOT/200/2025

IA NO: GA/1/2025

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

IN THE GOODS OF:
BARSHA GANGULI (DEC)
AND
SUGATA SHANKAR ROY
VS
KAUSHIK GANGULI

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE
And
The Hon'ble JUSTICE OM NARAYAN RAI
Date : August 5, 2025

Appearance:
Mr. Sugata Shankar Roy,
...appellant in person

Mr. Suman Kr. Dutt, Sr. Adv.
Ms. Debjani Ghosh, Adv.
Mr. Bhaskar Mukherjee, Adv.
Ms. Deblina Banerjee, Adv.
...for the respondent

Dictated by Arijit Banerjee, J.

The Court : By consent of the parties, the appeal and the connected application are taken up together for hearing.

This appeal is directed against an order dated July 18, 2025, passed by a Learned Judge of our Court in IA No.GA/6/2025 filed in connection with PLA/173/2023.

The facts of the case relevant for the purpose of the present appeal, briefly stated are that one Barsha Ganguli passed away on October 30, 2022,

leaving behind a Will dated February 5, 2020, which, according to the respondent herein is the last Will and Testament of the said deceased. The respondent who was named as the executor of the Will, filed PLA/173/2023 praying for probate of a photocopy of the said Will. By an order dated May 13, 2024, a Learned Judge of this Court granted such probate.

The appellant herein has filed an application for revocation of the probate, being IA No.GA/4/2025. That is pending before the Learned Single Judge.

It appears that prior to her death, Barsha was admitted to Apollo Gleneagles Hospital where she passed away ultimately. It also appears that Barsha had a locker in the Ballygunge Branch of State Bank of India. The locker was opened under Court order but nothing was found in it.

In the aforesaid factual background, the respondent herein made an application before the Learned Single Judge being IA No. GA/6/2025 praying for several orders including a direction upon the management of the Apollo Hospital to hand over to the respondent herein all medical records, treatment details, medicine lists, injections and medicines administered to Barsha Ganguli when she was on ventilation, qualification of the doctors who treated her, investigation reports, bills of the hospital etc. A direction was also sought for upon the Manager, State Bank of India, Ballygunge Branch, to provide the details of joint locker no.37 lying in the joint names of Barsha Ganguli and Sulochana Kanjilal (Barsha's sister's daughter), the date of the opening of the locker and the details of the total number of times the locker was operated till date.

Since the present appellant contends that Barsha actually left behind a registered Will dated April 16, 2022, which is her last Will and Testament and that the probate granted in favour of the respondent herein should be revoked, he opposed the present respondent's prayers made before the Learned Single Judge.

The main ground for the appellant to oppose the prayers of the respondent was that the medical records were confidential papers and the present respondent had no right of access to the same.

The Learned Judge noted that on a writ petition filed by the present respondent being WPA/505/2025, an order was passed on April 7, 2025. The relevant portion whereof reads as follows:

- "1. The petitioners are aggrieved by the act of Apollo Gleneagles Hospital in not handing over the medical records of one Late Ms Barsha Ganguli who was admitted and treated in the hospital and breathed her last in the hospital on October 13, 2022. The medical records sought for by the petitioners are the bed head tickets, all investigations/test reports, OT records, all drug/other therapies used on the patient during her treatment.*
- 2. The first petitioner claims to be the executor of the Will of the deceased. Copy of the probate passed in PLA No. 173 of 2023 produced before this Court is taken on record.*
- 3. Learned counsel for the petitioners submits that the documents sought for from the hospital will be required for furnishing the accounts in connection with the probate.*
- 4. It appears that the petitioners are yet to forward a copy of the probate to the hospital.*

5. It will be open for the petitioners to approach the subject hospital with the probate.

6. The hospital, on receipt of the probate, will hand over the documents of the deceased to the first petitioner within three weeks from the date of approach.”

Having noted the aforesaid order, which was not challenged before any higher forum, the Learned Judge directed Apollo Hospital to hand over the relevant papers to the respondent herein as he had prayed for. A direction was also passed on the Manager of the Ballygunge Branch of State Bank of India to make available to the present respondent the locker register since as the Learned Judge recorded, on that score the present appellant did not have any real objection.

Being aggrieved, the present appellant has come up before us. He says that the last Will and Testament of Barsha is not the one, photocopy of which has been admitted to probate. By gross suppression of fact and by practising fraud, probate has been obtained of a photocopy of the purported Will dated February 5, 2020. He is about to file an application for probate of the registered Will dated April 16, 2022. The Learned Single Judge should not have passed any direction on the hospital prior to affording an opportunity to him to file an affidavit-in-opposition to the present respondent's application.

As we recorded in our last order, we have not called upon the respondent's learned counsel to argue.

We do not see what error the Learned Single Judge has committed. There is an order dated April 7, 2025, whereby a Learned Judge of this Court

directed the hospital to hand over the relevant documents pertaining to the deceased to the respondent herein on receipt of the probate. That order has not been challenged by anybody till now. The Learned Single Judge in our case could not have possibly deviated from that order of a Co-ordinate Bench. Hence, we do not see why the order under appeal warrants interference. In our opinion, it does not.

Whether or not the present respondent obtained probate of a photocopy of the Will dated February 5, 2020, by practising fraud or by suppression of material fact is not for us to decide. Those issues may be decided in the appellant's application filed for revocation of probate.

In view of the aforesaid, this appeal fails and is dismissed along with the connected application.

Since we have not called for affidavits, the allegations in the stay petition are deemed not to be admitted by the respondent.

After this appeal is disposed of, we are told by the respondent that pursuant to the order of the Learned Single Judge, the management of the Apollo Hospital has already handed over the relevant documents to the respondent on July 18, 2025. We put the same on record.

(ARIJIT BANERJEE, J.)

(OM NARAYAN RAI, J.)