

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APOT/214/2025
WITH
PLA/96/2017
IA NO: GA/1/2025

IN THE GOODS OF:
ANIMA SENGUPTA (DEC.)
-AND-
PUJAN SENGUPTA
VERSUS
BONNIE DASGUPTA

WITH

OCOT/8/2025

IN THE GOODS OF:
SMT. ANIMA SENGUPTA, DECEASED
-AND-
IN THE MATTER OF:
PUJAN SENGUPTA
VERSUS
BONNIE DASGUPTA

BEFORE:

The Hon'ble JUSTICE ARIJIT BANERJEE
AND

The Hon'ble JUSTICE OM NARAYAN RAI
Date : 10th September, 2025.

Appearance:

Mr. Rudra Prasad Sinha, Adv.
Ms. Dipika Banu, Adv.
Ms. Aparupa Bhattacharya, Adv.
...for the appellant

Mr. Sourav Kumar Mukherjee, Adv.
Mr. Parashar Baidya, Adv.
Ms. Sahana Pal, Adv.
...for the respondent in Item No.8,
Bonnie Dasgupta

Dictated by Arijit Banerjee, J.

The Court: This appeal is directed against an order dated July 15, 2025, passed by a Learned Single Judge of this Court in GA/5/2025 filed in connection with PLA/96/2017, by the respondent.

The short facts of this case are that one Anima Sengupta died in the year 2015, leaving behind a Will and Testament dated January 28, 2010. It appears that one Smt. Tapasi Dasgupta was appointed as the sole executrix of the said Will. The Will further provided that in the absence of Tapasi Dasgupta, Pujan Sengupta, the present appellant, would act as the executor of the Will.

Pujan applied for probate of Anima's Will by filing PLA/96/2017 sometime in March, 2017. The present respondent being Bonnie filed a caveat in December, 2017 under Section 148A of the Code of Civil Procedure. No affidavit in support of such caveat has been filed till date.

Sometime in March, 2025, the respondent herein filed an application in the probate proceeding being GA/5/2025 praying for the following orders:-

“a. The said proceeding, being PLA No.96 of 2017 be dismissed in limine;

b. Alternatively leave be granted to the applicant, namely, Bonnie Das Gupta alias Bonnie Sumonto Das Gupta, to file a caveat under Chapter XXXV of the Original Side Rules of this Hon'ble Court and an affidavit in support of such caveat in the said proceeding, being PLA 96 of 2017 (In the goods of: Smt. Anima Sengupta ...Deceased), within a period of 4 weeks from the date of order or within such other time as this Hon'ble Court may deem fit and proper.

c. Alternatively to prayer (a), the said proceeding, being PLA 96 of 2017 (In the goods of: Smt. Anima Sengupta ...Deceased), be marked as contentious one.

d. All proceedings of the said proceeding, being PLA 96 of 2017 (In the goods of: Smt. Anima Sengupta ...Deceased) be stayed till disposal of the instant application;

e. Ad interim order in terms of prayer (c) above;”

It was on the aforesaid application that the Learned Single Judge passed the order impugned in this appeal. The order is a short one and reads as follows:-

“In the course of hearing of the application, it came to the notice that affidavit of asset is yet to be corrected and to be provided with particulars as noted therein.

Learned Counsel for the executor shall furnish the particulars as required and make necessary amendments in the affidavit of asset.

There is no dispute on the fact that caveat has been filed in the year 2017 by the caveatrix. Now, affidavit in support of the caveat has not been filed. Direction was made by the Co-Ordinate Bench to serve copy of the application for probate to the Caveatrix. Now it appears that affidavit of asset is to be corrected.

Learned Counsel for the petitioner shall cause correction and/or amendment of the affidavit of asset within a fortnight from date and shall serve copy of Probate application as well as affidavit of asset to the proposed caveatrix since the caveat is there. On receipt of the required application along with amended affidavit of asset, within eight days affidavit in support of caveat shall be filed.

Let the matter appear in the list on 8th August, 2025.

GA No. 5 of 2025 will appear in the list on that date for further order.”

Being aggrieved, the applicant for probate being Pujan has come up by way of this appeal.

We have heard learned Counsel for the parties.

We do not see how this appeal is maintainable. This appeal is not maintainable under the provisions of the Code of Civil Procedure, nor is it maintainable under Clause 15 of the Letters Patent, 1865 since it hardly qualifies as a judgment. By the order assailed, the Learned Single Judge has not decided any rights of the parties finally. GA 5 of 2025 is still pending before the Learned Single Judge. The appellant says that he has filed his opposition to the said application. The Learned Judge will decide such application in accordance with law.

We do not find any reason to interfere with the order under appeal. The appeal and the connected application stand dismissed. However, there will be no order as to costs.

In view of the order passed in APOT/214/2025, learned Advocate for the cross-objector says that he is instructed to withdraw the cross-objection.

OCOT/8/2025 is, accordingly, dismissed as withdrawn.

(ARIJIT BANERJEE, J.)

(OM NARAYAN RAI, J.)