

**IN THE HIGH COURT AT CALCUTTA
COMMERCIAL APPELLATE DIVISION
ORIGINAL SIDE**

**APO/6/2025
WITH
PLA/96/2020
IA NO: GA/1/2024**

**IN THE GOODS OF :
KAMLA JINDAL (DEC.) –AND- KARAN PAUL
VS
RAJIV JINDAL**

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK

-AND-

The Hon'ble JUSTICE MD. SHABBAR RASHIDI

For the Appellant : Mr. Mr. Ranjan Bachawat, Sr. Adv.
Mr. Jishnu Chowdhury, Sr. Adv.
Mr. Debanjan Mandal, Adv.
Mr. Sanjiv Kr. Trivedi, Adv.
Ms. Iram Hassan, Adv.
Mr. Aritra Basu, Adv.
Mr. Satyaki Mukherjee, Adv.
Mr. Sanket Saraogi, Adv.
Ms. Yukti Agarwal, Adv.
Mr. Himanshu Bhawsinghka, Adv.

For the Respondent : Mr. Soumalya Ganguli, Adv.

HEARD ON : 16.12.2025

DELIVERED ON : 16.12.2025

DEBANGSU BASAK, J.:-

1. The appeal is directed against a judgment and order dated October 5, 2024 passed in GA/1/2022 in PLA/96/2020.
2. The appeal is at the behest of the executor of a Will.
3. By the impugned judgment and order, learned Single Judge, extended the time for completion of administration of estate of the testator, within a period of three months from the date of the

impugned judgment and order. Learned Single Judge required the executor to submit a report of the true inventory within two weeks thereafter. Learned Single Judge also directed the executor to bear the cost and charges defending GA/1/2022. Learned Single Judge also held the executor liable to return the money spent from the estate of the testator on account of the legal charges, if any, to the fund of the estate.

4. Learned Senior Advocate appearing for the appellant submits that, the testator expired on November 21, 2018. The appellant was named as the executor of the Will of the testator dated May 1, 2010. Application for grant of probate of the Will of the testator was filed on March 20, 2020 and that, probate was granted on February 19, 2021.
5. Learned Senior Advocate appearing for the appellant submits that, the estate of the deceased, involved not only movable but also immovable properties. There were bank accounts of the testator. Since, death certificate of the testator was not available, banks were refusing to pass on the accruals in the accounts of the testator, in terms of the probate granted. Appellant as the executor, filed a writ petition after which, the death certificate was obtained. He points out that, the death certificate of the testator was obtained in the end of May, 2022. Thereafter, the bank accounts were operated.
6. Learned Senior Advocate appearing for the appellant submits that, the application for removal was filed on June 29, 2022 resulting in the impugned judgment and order. He submits that, subsequent to

June 29, 2022, various other steps were taken such as, realising the amounts from the respondent herein on account of compensation received by the respondent from National Highway Authority of India, amongst others. He submits on instructions that, the estate now stands fully administered with appropriate reports being filed in the Department.

- 7.** Respondent is represented.
- 8.** We find from the records that, Kamla Jindal expired on November 21, 2018 after leaving behind the last Will and Testament dated May 1, 2010.
- 9.** The last Will and Testament of the testator, named two persons as executors. One of the executors named in the Will, expired prior to the expiry of the testator, leaving the appellant as the surviving executor.
- 10.** An application for Letters of Administration was filed before this Hon'ble Court on March 20, 2020 which was allowed on February 19, 2021.
- 11.** Materials on record suggest that, although, Letters of Administration were granted on February 19, 2021, since, the death certificate of the testator was not available, the banks were refusing to allow operation of the bank accounts of the testator.
- 12.** Materials on record establish that, a writ petition was required to be filed for the purpose of obtaining the death certificate of the testator. Death certificate of the testator was obtained towards the end of May, 2022. Thereafter, the bank account of the testator was allowed to be operated by the bank.

- 13.** An application for removal of the appellant as the executor was filed by the respondent on June 29, 2022. Such application gave rise to the impugned judgment and order.
- 14.** Materials on record establish that, subsequent to the appellant as the executor obtaining the death certificate of the testator, appellant took steps for the purpose of administration of the estate of the deceased. The appellant obtained the proceeds of the bank accounts after submission of the death certificate of the testator with relevant banks. Appellant as the executor disbursed the amount in terms of the Will, to the respective beneficiaries.
- 15.** Materials on record also establish that, the respondent received a quantum of sum belonging to the estate of the testator, from the National Highway Authority of India. There is a slew of correspondence exchanged between the appellant and the respondent with regard to the sum received by the respondent in respect of the estate of the testator, from National Highway Authority of India.
- 16.** Ultimately, the appellant was successful in administering the estate of the testator and submit relevant reports before the Department.
- 17.** By the Impugned judgment and order, learned Single Judge, did not remove the appellant as an executor. Rather, the learned Single Judge, granted the appellant time to complete the administration of the estate within three months from the date of the judgment and order and to submit the report of true inventory within two weeks thereafter. The appellant complied with such portion of the

impugned judgment and order. Administration of the estate is presently complete and relevant reports are with the Department filed by the appellant.

18. So far as the cost of defending GA/1/2022 which resulted in the impugned judgment and order, is concerned, learned Single Judge directed the appellant to bear such cost as also to return the money spent from the estate of the testator on account of legal charges, if any.

19. We are of the view that, the learned Single Judge did not find that the appellant was guilty of the delay in administering the estate. In any event, we find that, the appellant was impeded by circumstances beyond his control, in administering the estate effectively and expeditiously till such time, he was able to do so.

20. In such circumstances, the portion of the impugned and order, which directs the appellant to bear the cost and charges in defending GA/1/2022 and be made liable to return the money spent from the estate of the testator on account of such legal charges, to the estate, is set aside.

21. APO/6/2025 along with all other connected applications are disposed of accordingly, without any order as to costs.

(DEBANGSU BASAK, J.)

22. I agree

(MD. SHABBAR RASHIDI, J.)