13.04.2026
SL No.2
Court No.12
(gc)

FMA 100 of 2022
CAN 1 of 2021

Debdas Bhattacharya
Vs.
State of West Bengal & Ors.

Mr. Amlan Jyoti Sengupta
…for the Appellant.
Mr. Asish Kumar Guha,
Mr. Naren Ghosh Dastidar
…for the State.

1. Supplementary affidavit containing the report/note sheet prepared by the Revenue Officer and approved by the District Magistrate is taken on record.

2. The appellant is aggrieved by an order dated August 12, 2021, passed in WPA 12457 of 2021. By the order impugned, the learned Judge dismissed the writ petition on the ground that disputed questions involving allegation of fraud, could not be decided by His Lordship.

3. The writ petition was filed by the appellant, challenging the order of cancellation of the death certificate issued by Mangalda Montosh Gram Panchayat at, on January 27, 2014. The same was issued in the name of one late Dhajadhari Bhattacharya. The said order of cancellation was issued by the said Gram Panchayat on July 5,

2021. The date of death was recorded as November 28, 1962 in the said certificate.

4. The respondents submitted before the learned Judge that the doctor who certified the death of the grandfather of the appellant, was untraceable. The document recording the death of Dhajadhari Bhattacharya, was in the nature of a statement of the doctor and could not be relied upon in the process of belated registration of death.

5. The doctor's statement was issued in October, 1990. The same was not on the letterhead of the doctor. Whether the doctor was employed by a regular hospital, was not available from the records.

6. We have perused the statement of the doctor who stated that Dhajadhari Bhattacharya of village (illegible), was suffering from throat cancer and had expired on November 28, 1962. From the said statement, it is not available how the doctor was aware of such fact and whether the doctor had actually treated Dhajadhari Bhattacharya (the deceased). Moreover, whether the death took place in the hospital or at home was not mentioned.

7. The Office of the District Magistrate made an enquiry. The death certificate was issued in the year 2014. Thus, the same was cancelled by the gram panchayat, upon instruction from the District

Magistrate. It was found that fraud had been practiced in obtaining the death certificate.

8. A complaint had been received by the concerned authority, from a party who was contesting a proceeding before the West Bengal Land Reforms and Tenancy Tribunal. The issue of the date of the death of Dhajadhari Bhattacharya, was raised in a proceeding before the Tribunal.

9. The Revenue authority had made an enquiry and stated that there were documents before the authority which would indicate that the death could not have taken place in 1962.

10. It appears from the report filed by the state respondents, which is a part of the supplementary affidavit, that Dhajadhari Bhattacharya was an intermediary, holding 35.50 acres of land as on the cardinal date of vesting, i.e., April 14, 1964. All lands of Dhajadhari Bhattacharya stood vested in the State, free from all encumbrances under the provisions of the West Bengal Estate Acquisition Act. A proceeding being B.R. Case No.67 was initiated against the said intermediary to determine the extent of lands he wanted to retain. Notice of hearing was issued, fixing the date of hearing on April 18, 1968. The same was served upon the said intermediary by a messenger, which was duly

received by the intermediary himself, under his own signature on April 4, 1968. On the date of hearing, neither the intermediary nor his representative appeared. The hearing was adjourned and subsequently fixed on July 14, 1969. A notice was issued to the said intermediary by registered post, but the same was returned, as the intermediary had died in the meantime.

11. The report further stated that the Revenue Officer, on local enquiry, had come to know that the said intermediary died leaving behind him, three sons as his heirs and, therefore, made them parties in the Big Raiyat Case. Local inhabitants mentioned that the death could have occurred anytime between 1965 to 1970.

12. The case was finally taken up for hearing on October 31, 1969, when none of the heirs of the deceased intermediary or their representative appeared. Therefore, the Revenue Officer was left with no alternative, but to hold that the heirs of the said intermediary, since deceased, did not intend to retain any land held by their predecessor-in-interest. Consequently, all the lands held by the aforesaid intermediary stood vested in the State, free from all encumbrances with effect from the cardinal date, i.e., April 14, 1964. The heirs of the

intermediary challenged the vesting of the lands, before the High Court in a writ petition in the year 1988, which was subsequently transferred to the Land Reforms and Tenancy Tribunal. The heirs produced the death certificate issued on January 27, 2014 by the Sub-Registrar of Birth and Deaths in Mangalda Montosh Gram Panchayat, under Raghunathpur-II block indicating that the date of death was November 28, 1962. The State authorities filed an affidavit in opposition before the Tribunal, disputing the death certificate to the extent that some procedural irregularities/lapse had occurred in issuing the said death certificate, and prayed that the Tribunal should not rely upon such death certificate.

13. The report mentions that, Sri Debdas Bhattacharya, the grandson of Dhajadhari Bhattacharya submitted an application in Form no.4, for belated recording of the death before the Registrar of Births and Deaths, but the form did not contain any date. The form was forwarded by the Registrar to the District Magistrate, Purulia with an enquiry report submitted by the Block Sanitary Inspector. The enquiry report was submitted after examination of the Pradhan's certificate, the medical documents, etc. Thereafter, a

correspondence from the office of the District Magistrate was made with the Registrar of Births and Deaths to the effect that the prayer for subsequent entry of the death report in respect of Dhajadhari Bhattacharya may be allowed on payment of usual fees.

14. The correspondence was forwarded to the Pradhan of the concerned Gram Panchayat for issuance of the death certificate. Against such factual background, the certificate was issued.

15. Thereafter, on enquiry it transpired that the Registration of Births and Deaths Act, 1969 (hereinafter referred to as the said Act) and the West Bengal Registration of Births and Deaths State Rules, 2000, had not been complied with while issuing the certificate.

16. Section 8(1) of the Act, 1969 deals with the procedure for providing information of death in case where the death occurred in the house. In respect of birth and death in the house, the information as required under Section 8(1) must be furnished by the head of the household. Rule 5 of the State Rules, 2000 lays down that the information as required under Section 8 must be given in Form-2 within 21 days from birth or death. According to the authority, the Act also had a provision that in

case of delay in registration of death, or in case of occurrence of death, prior to one year, the same shall be registered on an order of an Executive Magistrate. This procedure was not followed in issuing the death certificate.

17. Moreover, there was a dispute with regard to the date of death, the notice of hearing of the B.R. Case was received personally by the deceased. The receipt copy which bore the signature of the deceased, was in the office of the Revenue authority indicating that as on April 4, 1968, he was alive. The appellant, Sri Debdas Bhattacharya swore an affidavit on November 8, 2013, *inter alia*, stating that the death occurred in the house of the deceased. The information given by the appellant was in Form-4, whereas, in this case information should have been given in Form-2. The report of the Block Sanitary Inspector also stated that the date of death was reported by the grandson, and was on the basis of unverified documents. Under such circumstances, the certificate relied upon by the appellant was cancelled.

18. The heirs of the deceased was already put on notice about the irregularity in the Death Certificate, in the proceeding before the Tribunal. The heirs contested the proceeding before the

Tribunal and the stand of the State respondents that the date of death was wrongly recorded, for the grounds and reasons which have been discussed hereinabove and/or, were within the knowledge of the heirs of the deceased.

19. Relevant provisions of the law that was relied upon by the authority are quoted below:-

"Section 13 of The Registration of Births and Deaths Act, 1969 is hereby quoted below:-

> "13. Delayed registration of births and deaths.—
>
> (1) Any birth or death of which information is given to the Registrar after the expiry of the period specified therefor, but within thirty days of its occurrence, shall be registered on payment of such late fee as may be prescribed.
>
> (2) Any birth or death of which delayed information is given to the Registrar after thirty days but within one year of its occurrence shall be registered only with the written permission of the prescribed authority and on payment of the prescribed fee and the production of an affidavit made before a notary public or any other officer authorised in this behalf by the State Government.
>
> (3) <u>Any birth or death which has not been registered within one year of its occurrence, shall be registered only on an order made by a magistrate of the first class or a Presidency Magistrate after verifying the correctness of the birth or death and on payment of the prescribed fee</u>.
>
> (4) The provisions of this section shall be without prejudice to any action that may be taken against a person for failure on his part to register any birth or death within the time specified therefor and any such birth or death may be registered during the pendency of any such action."

Rules 5 and 10 of West Bengal Registration of Births and Deaths State Rules 2000 are hereby quoted below:-

5, Form, etc. forgiving infrmatiori of births and deaths.-

(l) The information required to be given to the Registrar under section 8 or section 9, as the case may be, shall be in Form-l, Form-2 and Form-3 for the registration of births, death and still birth respectively, hereinafter to be collectively called the reporting forms. Information if given orally, shall be entered by the Registrar in the appropriate reporting forms and the signature/thumb impression of the informant obtained.

(2) The part of the reporting forms containing legal information shall be called the 'Legal Part' and the part containing statistical information shall be called the 'Statistical Part'

(3) The information referred to in sub-rule (1) shall be given within twenty-one days from the date of birth, death and still birth.

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* * *

10. Authority for delayed registration and fee payable therefore.-(l) Any birth or death of which information is given to the Registrar after the expiry of the period specified in rule 5, but within thirty days of its occurrence, shall be registered on payment of a late fee of rupees two:

Provided that-where a Sub-Registrar is appointed for the purpose, he shall register such events with the permission of the Registrar.

(2) Any birth or death of which information is given to the Registrar /Sub-Registrar after thirty days but within one year of its occurrence, shall be registered only with the written permission of

(a) the District Registrar or the Additional District Registrar in rural area.

(b) The Chief Municipal Health Officer/ Administrator/Chief Executive Officer of a Municipal Corporation.

(c) The Chairman / Administrative Executive Officer / Officer of a Municipality .

(d) The Chairman /Executive Officer of a cantonment or notified area-as the case may be, and on payment of a late fee of rupees five, and production of an affidavit made before a Notary Public or a First Class Magistrate.

(3) Any birth or death which has not been registered within one year of its occurrence shall be registered only on an order of an Executive Magistrate and on payment of a late fee of rupees ten."

20. Under such circumstances, when these factual disputes were before the writ court, exercise of discretionary power to scrutinize the death certificate, was not warranted.

21. Accordingly, the appeal and the connected application are dismissed.

22. The dismissal of the appeal will not preclude the appellant from taking appropriate steps that may be permissible in law any civil court or before the appropriate authority.

23. There shall be no order as to costs.

24. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)