

20.02.2026
Item No.7
Ct. No. 30
Aloke

CO 2448 of 2025

**Subhash Mishra
Vs.
Chiman Lal Lohia & Anr.**

Mr. Dhiroj Trivedi, ld. Sr. Adv.
Mr. Sounak Bhattacharya
Mr. Bikash Kr. Singh
Ms. D. Shaw
..for the petitioner

Mr. Siddhartha Banerjee
Mr. Safiqul Mondal
Mr. Tanmoy Chatterjee
Ms. Sunita Dhar
... for the opposite parties

1. The civil revision has been preferred challenging an order being no. 39 dated 06.06.2025 passed by the learned Additional District Judge, 3rd Court at Alipore, in Act 39 (Probate) Case No. 6 of 2020.
2. Vide the impugned order the trial Court passed an order as follows :

*“Heard Ld. Advocates for both sides.
Perused the petition. Considered.
Ld. Advocate for the petitioner Subhash Mishra has submitted that he had filed caveat as per provision of Section 284 of Indian Succession Act opposing the probate application of the executors. This petition has been filed praying for declaring the suit as contentious.
Ld. Advocate for the plaintiff raised strong objection. He has submitted that the petitioner Subhash Mishra is a third party and he has no locus standi to raise any objection in this probate case.*

On perusal of the case record it appears that this case has been filed for granting of probate of the last Will by Sri Sattyanarayan G. Sekhsaria since deceased. On perusal of the case record it appears that Subhash Mishra the petitioner had filed a petition under Order 1 Rule 10(2) CPC adding as applicant as necessary party in this suit. That petition was rejected vide order no. 32 dated 29.02.2024.

In view of that order the instant petition is also rejected being misconceived one.

To 22/09/25 for hearing.

*A.D.J (3rd) Court,
(WB00742)”*

3. As per liberty granted the petitioner has filed a supplementary affidavit wherein a copy of the order no. 32 dated 29.02.2024 rejecting an application under Order 1 Rule 10(2) CPC filed by the petitioner herein.
4. Heard the learned counsels for the parties. Perused the materials on record. Considered.
5. Section 284 of the Indian Succession Act, 1925 lays down as follows :

284. Caveats against grant of probate or administration.—

(1) Caveats against the grant of probate or administration may be lodged with the District Judge or a District Delegate.

(2) Immediately on any caveat being lodged with any District Delegate, he shall send copy thereof to the District Judge.

(3) Immediately on a caveat being entered with the District Judge, a copy thereof shall be given to the District

Delegate, if any, within whose jurisdiction it is alleged the deceased had a fixed place of abode at the time of his death, and to any other Judge or District Delegate to whom it may appear to the District Judge expedient to transmit the same.

6. It appears from the materials on record that order no. 32 dated 29.02.2024 was challenged before the High Court in C.O. 1635 of 2024 wherein the Coordinate Bench had noted as follows :

“2. Having regard to the facts noted above, he seeks leave to withdraw the revisional application by reserving his right to apply before the learned District delegate or the Additional District Judge as the case may be for noting the objection in the manner prescribed.”

7. The petitioner herein as per liberty granted made an application under Section 284 of the Succession Act before the trial Court.

8. It appears from the impugned order that the trial Court treated the application under Section 284 of the Indian Succession Act at par with an application Order 1 Rule 10(2) CPC which was earlier rejected vide order no. 32 dated 29.02.2024 and without any reasoning provided in the said impugned order rejected the application under Section 284 of the Indian Succession Act.

9. As such, the impugned order being no. 39 dated 06.06.2025 passed by the learned Additional District Judge, 3rd Court at Alipore, in Act 39 (Probate) Case No. 6 of 2020, being not in accordance with law, is set aside.

10. The application under Section 284 of the Succession Act, 1925 filed by the petitioner before the trial Court is restored.

11. On a caveat being filed, the same is to be considered by the District Delegate/District Judge as per the provisions of the Succession Act being Sections 284 to 288 therein.

12. Accordingly, the learned ADJ, 3rd Court, Alipore is directed to act as per provisions of Sections 284 to 288 of the Succession Act and while doing so, shall not be influenced by order no. 39 dated 06.06.06.2025 passed in respect of the application under Order 1 Rule 10(2) CPC.

13. It is clarified that this Court has not gone into the merit of the case and all points are left open for the parties to agitate before the learned ADJ, 3rd Court, Alipore.

14. Civil revision stands disposed of.

15. Connected application, if any, stands disposed of.

16. Interim order, if any, stands vacated.

17. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Shampa Dutt (Paul), J.)