

Appellant Vs. Respondent

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SooperKanoon Citation : sooperkanoon.com/1060306

Court : Kolkata

Decided On : May-02-2013

Judge : I. P. Mukerji

Appellant : Appellant

Respondent : Respondent

Judgement :

ORDER

SHEET GA No.1179 of 2013 With PLA No.270 of 2010 IN THE HIGH COURT AT CALCUTTA Ordinary Original Civil Jurisdiction ORIGINAL SIDE IN THE GOODS OF: SABITA RANI BISWAS (DEC) AND IN THE GOODS OF: KRISHNA BHUSAN BISWAS (DEC) BEFORE: The Hon'ble JUSTICE I.P.MUKERJ.Date :

2. d May, 2013 Appearance: Ms.Divya Khetri, Adv.Ms.Debjani Ghosh, Adv.for the petitioner.

The Court : The Will in question was jointly executed by husband and wife, Sabita Rani Biswas and Krishna Bhusan Biswas.

Apart from the executor who is their son the deceased had two heirs on intestacy, Smt.

Madhumita Mitra, a daughter and Sr.Siddharta Biswas their son.

Smt.

Madhumita Mitra was served with the citation on 4th June, 2011 but till date she has not filed any affidavit in support of the caveat.

As far as Siddharta Biswas is concerned, I am satisfied from the report of the office of the Sheriff annexed to the petition that he was aware of the contents of the packet sought to be delivered to him by registered post with acknowledgement due and by Courier but he did not claim it.

When the special messenger went to deliver the packet, he refused to accept it.

In those circumstances, I would consider the service of special citation to be good service.

A report regarding the mode of service is dated 25th September, 2012.

Therefore, the time to lodge any caveat or affidavit in support thereof for both Smt.

Madhumita Mitra and Sr.Siddharta Biswas had expired long ago.

Since the above are the only heirs on intestacy I pass an order in terms of prayer (a) of the Masters Summons.

The department may not process the application for grant of probate accordingly.

Ad valorem duty payable may be accepted in accordance with law.

This application is disposed of by the above order.

All parties are to act on a signed photocopy of this order on the usual undertakings.

(I.P.MUKERJI, J.) B.Pal A.R.(C.R.)

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