

Ashish Kumar Mitra Vs. Suparna Mitra

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Court : Kolkata

Decided On : Apr-28-2014

Judge : Soumen Sen

Appellant : Ashish Kumar Mitra

Respondent : Suparna Mitra

Judgement :

ORDER

TS No.5 of 2008 PLA No.80 of 1999 IN THE HIGH COURT AT CALCUTTA
Testamentary & Intestate Jurisdiction IN THE GOODS OF: SMT.

NAMITA MITRA (DECEASED) ASHISH KUMAR MITRA VS SUPARNA MITRA
BEFORE: The Hon'ble JUSTICE SOUMEN SEN Date: 28th April 2014.

Appearance: Mr.Suman Kumar Dutt, Advocate Mr.S.Sengupta, Advocate
Mr.Arnab Dutt, Advocate.

COURT: This is an application for grant of letters of administration attached to the original Will taken out by one of the beneficiaries of the last Will and Testament of Smt.

Namita Mitra, widow of Shambhu Nath Mitra.

Since the executor died before the application could be taken up, this application has been filed by one of the beneficiaries under the Will.

Mr.Suman Dutt, learned counsel appearing on behalf of the beneficiary submits that initially the probate was granted in common form but subsequently the said order was set aside.

The beneficiary as well as one of the attesting witnesses have been examined on commission.

Mr.Dutt has referred to the depositions of the said witnesses as recorded before the contest this Commissioner.

None appears on behalf of the caveatrix to proceeding.

It appears from the record of proceedings that the caveatrix also did not appear before the Commissioner.

The after Commissioner completion of has the returned the commission.

evidence On to this consideration court of the evidence on record, it appears that the Will has been validly executed in accordance with Section 63 of the Indian Succession Act, 1925.

In absence of any evidence contrary to what has been recorded during commission and on the basis of such irrebuttable testimony of the witnesses, in my view, the beneficiary is entitled to the grant.

Upon payment of ad valorem court fees, if not already paid, and furnishing a personal bond of Rs.1 lakh with one surety, there shall be an order in terms of prayer (d) of the petition.

The department is directed to draw up the decree expeditiously as possible.

(SOUMEN SEN, J.

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Kumar A.R.(C.R.) as

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