

Aditya Barna Mittra and ors Vs. Aditya Barna Mittra and ors

Aditya Barna Mittra and ors Vs. Aditya Barna Mittra and ors

SooperKanoon Citation : sooperkanoon.com/1171065

Court : Delhi

Decided On : Sep-18-2014

Judge : G. S. Sistani

Appellant : Aditya Barna Mittra and ors

Respondent : Aditya Barna Mittra and ors

Judgement :

\$~41. * IN THE HIGH COURT OF DELHI AT NEW DELHI Date of decision:

18. 9.2014 + TEST.CAS. 44/2014 ADITYA BARN MITTRA & ORS Petitioners Through : Mr.Jasmeet Singh and Ms.Kritika Mehra, Advs. versus STATE Through Respondent CORAM: HON'BLE MR. JUSTICE G.S.SISTANI G.S.Sistani, J.,(Oral) 1. By the present petition filed under Section 272 of the Indian Succession Act the petitioners seek grant of letters of administration with respect to the estate of their uncle (Chacha), late Sh.Bijoy Pratap Mittra (B.P. Mittra).

2. Notice in the present petition was issued to the State. Valuation report has been received. Publication was also carried out in The Statesman, Delhi Edition. Copy of citation has been filed. All the close relations are stated to be petitioners in the petition. No objections have been received from the public at large.

3. Petitioners have filed affidavit by way of evidence of one Sh.A.B. Mitra, one of the petitioners, the said affidavit has been exhibited as Exhibit PW-1/A. It may be noticed that this petition has been filed by three nephews and one niece of late

Sh.Bijoy Pratap Mittra. Petitioner no.1 is the Power of Attorney holder of petitioners no.2 to 4. The said Power of Attorneys have been filed and exhibited as PW1/1 to PW-1/3.

4. As per the evidence of PW-1, Dr.Ishan Tosh Mittra, who was the father of late Mr.Bijoy Pratap Mittra, died on 27.6.1985, and Mrs.Joykali Mittra, mother of Mr.Bijoy Pratap Mittra, died in the year 1964. Their death certificates are stated to be not available.

5. Mr.Bijoy Pratap Mittra died intestate on 13.7.1980 at Delhi leaving behind his two brothers, namely, Dr.Amita Pratap Mittra and Mr.Krishna Pratap Mittra. Death certificate of late Mr.Bijoy Pratap Mittra has been filed and exhibited as Ex.PW-1/4.

6. PW-1 has further deposed that late Mr.Bijoy Pratap Mittra was married but had no children. Late Mr.Bijoy Pratap Mittra separated with his wife in late 1960s, he started living with his brothers at 26, Curzon Road and subsequently at B-77, Greater Kailash-I, New Delhi. The wife of late Mr.Bijoy Pratap Mittra was stated to have been staying at an accommodation at Janpath Lane, New Delhi, till she predeceased him.

7. It has further been stated that Dr.Amita Pratap Mittra, elder brother of late Mr.Bijoy Pratap Mittra, died on 13.9.1999, leaving behind his two sons, namely, Mr.Aditya Barna Mittra and Dr.Indraneel Mittra as his only legal heirs (petitioner no.1 and petitioner no.2). Death certificate of Dr.Amita Pratap Mittra dated 13.9.1990 has been exhibited as Ex.PW-1/5.

8. It has also been deposed that Mrs.Surama Mittra, wife of late Dr.Amita Pratap Mittra, predeceased him on 15.6.1999. The death certificate of Mrs.Surama Mittra dated 17.6.1990 has been exhibited as Ex.PW-1/6.

9. PW-1 has also testified that Sh.Krishna Pratap Mittra, younger brother of late Mr.Bijoy Pratap Mittra, died on 18.6.1993 leaving behind his two children, namely, Esha Ghose and Sh.Dev Ranjan Mittra (petitioner no.3 and petitioner no.4). Death certificate of late Sh.Krishna Pratap Mittra has been exhibited as Ex.PW-1/7. Smt.Kamala Mittra, wife of Sh.Krishna Pratap Mittra, died on 28.5.1993. Her death

certificate has been exhibited as Ex.PW-1/8.

10. Details of properties left behind by late Sh.Bijoy Pratap Mittra have been detailed in the affidavit. Copy of perpetual deed dated 28.5.1976 executed by L&DO in favour of late Sh.Bijoy Pratap Mittra, duly signed by late Sh.Bijoy Pratap Mittra at point A, has been exhibited as PW-1/9.

11. I have heard learned counsel for the petitioners and also carefully examined the affidavit by way of evidence filed by PW-1/1. As per the evidence, late Sh.Bijoy Pratap Mittra died intestate on 13.7.1980. Wife of late Sh.Bijoy Pratap Mittra pre-deceased him and died in Mid 1970s. The two brothers of late Sh.Bijoy Pratap Mittra have also died. Both the brothers have two children, who are the petitioners herein and who are the legal heirs, who in law can succeed to the estate of late Sh.Bijoy Pratap Mittra. The publication has been carried out, however, no objection has been received. Valuation report has been filed.

12. I find no legal impediment for grant of letters of admonition to the estate of late Sh.Bijoy Pratap Mittra in favour of the petitioners.

13. Accordingly, present petition is allowed. Letters of administration with respect to the estate of late Sh.Bijoy Pratap Mittra (B.P. Mittra) be granted in favour of the petitioners, subject to petitioners furnishing administrative bond and necessary court fees.

14. Petition stands disposed of. G.S.SISTANI, J SEPTEMBER18 2014 msr

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com