

O.C. 03 of 2022
CNR No. WBCC01-002392-2022

Present: Sri Subhas Kumar Kar, Judge, Bench-V (WB00592)

Order No. 51/ Dated 04.06.2024

Record is put up for order on the petition under Section 251 of the Indian Succession Act.

It appears from the record that both sides were heard at length on the petition on 29.04.2024 and 15.05.2024 and today it is taken up for order.

Caveator and O.P no. 4 namely, Kalpana Gupta filed this petition with a prayer to appoint her as administrator ad litem for the purpose of taking the account and deposit of collection and preservation of the income of the flat in respect of the estate of the deceased during the pendency of this suit on the premises that one Ashok Kumar Gupta elder son of testatrix filed a petition for grant of probate being Probate case no. 46 of 2011 on the Will dated 22.01.2011 and the mother of the present petitioner namely, Anuradha Malik had filed a written consent for grant of probate in favour of said Ashok Kumar Gupta and the said petition was filed for herself and being the constituted attorney of Dr. Manjula Khandelwal and Usha Saxena and the said case was dismissed for default and the Probate Case was filed for grant of probate for the alleged Will dated 20.01.2011 and the present Probate Case has been filed for the grant of probate on the alleged Will dated 04.04.2006 and the petitioner has filed several frivolous application and the property mentioned in the Will are lying uncared and some of the flat at premises no. 12, Loudon Street, Kolkata-700017 are occupied by trespassers namely Calcutta Medical Centre Ltd and the affidavit of assets also does not include 5000 shares of SIEMENS Ltd held by the testatrix and in that circumstances the present petition was made for better management of the property left by the testatrix.

Petitioner has filed a petition against the said objection denying and disputing all the allegations and inter-alia stated that the caveator herself has entered into a criminal conspiracy with the shareholders of Calcutta Medical Centre Ltd by manufacturing two bogus agreements for sale at an alleged consideration of

Rs.50,00,000/- and Rs.80,00,000/- in respect of the same property of the testatrix on 18.04.2019 and a criminal case has been started on the complaint of the petitioner which is pending before Ld. 19th M.M at Calcutta and the property left by the testatrix are not in distress and it is prayed to reject the petition.

On perusal of the record, it appears that petition for grant of letters of administration under Section 278 of Indian Succession Act was filed by one Ankur Malik on the last Will of Prema Gupta being the beneficiary of the the said alleged last Will on the premise that the said Will was executed by testatrix on 04.04.2006 and appointed Smt. Usha Saxena one of her daughters as the sole executrix of the said Will and the said Usha Saxena who is a permanent resident of United States expressed her inability to file the probate application before the competent court of law by her letter dated 27.10.2018 and thereafter present case was filed by the petitioner who is one of the beneficiary of the Will praying for Letters of Administration and therefore admittedly there is no executor of the Will presently to lookafter and for administration of the property for the purpose of Section 211(1) of the Indian Succession Act.

However on perusal of the materials placed on record it appears that there exists strong allegations against the caveator for her attempt to misappropriate the property left by the testatrix and a criminal case is pending against her on the said allegation.

Thus, there is no cogent reason to consider the caveator for appointment of administrator of the property during the pendency of the suit and in the line of the above observations, the present petition under Section 251 of Indian Succession Act stands rejected on contest but without any cost.

Fix 24.06.2024 for P-hearing of the case.

D/c by me,

Judge.

Judge, Bench-V,
City Civil Court, Calcutta.