



23.11.2022
SL No.5
Court No.8
(gc)

FA 141 of 2022
CAN 1 of 2016 (Old No: CAN 3835 of 2016)
CAN 2 of 2022

Smt. Suman Ray & Anr.
Vs.
Sri Anil Karmakar & Ors.

Ms. Nilanjana Adhya,
...for the Appellant/Petitioner No.1.
Mr. Malay Kumar Adhikari,
...for the Respondent No.1.

Mr. Malay Kumar Adhikari, learned Counsel appears and submits that deed of gift dated 17th February, 2016 has been acted upon. The learned Counsel undertakes to file Vakalatnama on behalf of Sri Anil Karmakar in course of the day.

In view of the inordinate delay of almost 6 years, we do not propose to interfere with the deed of gift already executed, registered and acted upon. We have been informed that a suit for eviction is pending against the appellants filed by the donees. In the event it is contended and held that the probate granted is required to be recalled then such transfer of Sri Anil Karmakar would be bad in law.

We restrain the donees of the Will from evicting the appellants from the suit premises till the disposal of the probate proceeding.

Accordingly, the application being CAN 2 of 2022 stands disposed of.



The application for addition of Smt. Sandhya Roy, Smt. Kanak Majumder and Sri Tarun Kumar Karmakar is allowed.

Since Smt. Sandhya Roy, Smt. Kanak Majumder and Sri Tarun Kumar Karmakar are now the donees, we feel that their presence is required and their names should be added in the memorandum of appeal and a notice of appeal along with the amended memorandum of appeal shall be served upon Smt. Sandhya Roy, Smt. Kanak Majumder and Sri Tarun Kumar Karmakar within one week after their names added in the memorandum of appeal. The amendment shall be carried within 10 days from date.

Accordingly, the application being CAN 1 of 2016 (Old No: CAN 3835 of 2016) stands disposed of.

Mr. Abhishek Agarwal is directed to put in the requisites for service of the amended memorandum of appeal upon Smt. Sandhya Roy, Smt. Kanak Majumder and Sri Tarun Kumar Karmakar within 10 days from date.

The learned District Judge, Alipore is directed to ensure that L.C.R. is forwarded to this Court within one week from the date of communication of this order. The learned District Judge must also ensure that all the records of the probate case are in order and not defective.

The department must ensure that immediately upon arrival of the L.C.R., notice is served upon Mr. Abhishek Agarwal, learned Advocate-on-record for the



appellants so as to enable him to take immediate steps towards preparation of the paper books.

Mr. Malay Kumar Adhikari, learned Counsel waives service of notice of appeal upon the respondent No.1.

The appellants shall prepare and file requisite number of informal paper books, printed, typewritten or cyclostyled, as the case may be, out of court, within four weeks after arrival of the Lower Court's Record.

The appeal shall be listed in Combined Monthly List of February, 2023.

(Uday Kumar, J.)

(Soumen Sen, J.)