

OD-14, 20 to 24

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Testamentary and Intestate Jurisdiction
ORIGINAL SIDE

IA NO. GA/11/2023
In TS/5/2017

IN THE GOODS OF :
INDUMATI GIRJASHANKAR OJHA @ INDUMATI G. OJHA
-AND-
PURUSHOTTAM JAGANNATH BHIDE
-VS-
BHAVIT BOLE

&

IA NO. GA/6/2017
(Old No: GA/1864/2017)
In TS/5/2017

IN THE GOODS OF :
INDUMATI GIRJASHANKAR OJHA @ INDUMATI G. OJHA
-AND-
PURUSHOTTAM JAGANNATH BHIDE
-VS-
BHAVIT BOLE

&

IA NO. GA/7/2020
In TS/5/2017

IN THE GOODS OF :
INDUMATI GIRJASHANKAR OJHA @ INDUMATI G. OJHA
-AND-
PURUSHOTTAM JAGANNATH BHIDE
-VS-
BHAVIT BOLE

&

IA NO. GA/8/2021
In TS/5/2017

IN THE GOODS OF :
INDUMATI GIRJASHANKAR OJHA @ INDUMATI G. OJHA
-AND-
PURUSHOTTAM JAGANNATH BHIDE
-VS-
BHAVIT BOLE

&

IA NO. GA/9/2021
In TS/5/2017

IN THE GOODS OF :
INDUMATI GIRJASHANKAR OJHA @ INDUMATI G. OJHA
-AND-
PURUSHOTTAM JAGANNATH BHIDE
-VS-
BHAVIT BOLE

&

IA NO. GA/10/2022
In TS/5/2017

IN THE GOODS OF :
INDUMATI GIRJASHANKAR OJHA @ INDUMATI G. OJHA
-AND-
PURUSHOTTAM JAGANNATH BHIDE
-VS-
BHAVIT BOLE

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date: 05TH DECEMBER, 2023.

Appearance:

Mr. Debnath Ghosh, Adv.
Mr. Debasish De, Adv.
Ms. D. De, Adv.
...for the petitioner

Mr. Chayan Gupta, Adv.
Mr. Shameek Ray, Adv.
Mr. Niket Ojha, Adv.
...for the executor.

Mrs. Kochhar, Adv.
Mr. Raja Mantosh, Adv.
...for Rajeshwar Parkhani

Mr. Suman Basu, Adv.
Mr. Abdul Murshid, Adv.
...for the intervenor.

The Court: Initially Purushottam Jagannath Bhide, son of late Jagannath Vinayak Bhide has filed an application being PLA No. 260 of 2009 for grant of probate of the last Will and Testament dated 29th

December, 2008 of the testatrix Smt. Indumati Girjashankar Ojha also known as Smt. Indumati G. Ojha.

At the time of filing of the application, all the legal heirs have given their consent for grant of probate but in the meantime, one person, namely, Mr. Bhavit Bole had filed a caveat as well as affidavit in support of caveat claiming one of the properties which is appearing at Serial no. D of the affidavit of assets being residential flat at 1st Floor measuring 2400 Sq. fit., car parking space, guest room with attached toilet admeasuring 220 Sq. Ft. above covered Garage and roof rights at premises No. 36A, Dr. Rajendra Road, P.O. Elgin Road, Bhowanipore, Kolkata-700020.

Initially, the caveat filed by Mr. Bhavit Bole was allowed by this Court but subsequently, the executor has challenged the said order before the Appellate Court and the Appellate Court had set aside the order and restored the affidavit of assets with regard the residential flat as mentioned above mentioned in Serial No. 6(D).

Mr. Mukul Pathak and Mr. Himanshu Pathak have filed an application being GA No. 6 of 2017 (Old GA No. 1864 of 2017) praying for removal of Purushottam Jagannath Bhide as executor of the said Will. In the meantime, Mr. Himanshu Pathak has filed another application being GA No. 7 of 2020 praying for appointment of Administrator Pendente Lite with respect of the estate of the deceased and several other reliefs. Mr. Rajeshwar Parkhani has also filed an application being GA No. 8 of 2021 praying for direction upon Mr. P.J. Bhide to sign the relevant documents pertaining to the sale of assets of Mr. PK Bai and Mr. MK Bai partnership and further other reliefs.

Mr. Himanshu Pathak has again filed another application being GA No. 10 of 2022 praying for a direction upon the Standard Chattered Bank, N. S. Road , Kolkata Branch to furnish the information and bank statements in respect of the Savings Account No. 32210218251 and D-Mat Account (DP ID: IN300360) (Client ID 22572477) of the deceased and also in respect of the D-Mat Account (DP ID: IN300360) (Client ID: 21038182) held by said Rajeshwar Parkhani and further other reliefs.

One Mrs. Shushilaben Gopalrai Bole has filed an application being GA No. 11 of 2023 praying for allowing the petitioner to be added as party in GA No. 6 of 2017.

Considered the submission made by the Counsel for the respective parties. Perused the materials on record.

Before passing any orders in respect of other applications, this Court intends to dispose of GA No. 11 of 2023 wherein the applicant Mrs. Shushilaben Gopalrai Bole intends to be added as party in GA No. 6 of 2017.

All the contested parties have raised no objection stating that the applicant is having interest in the Will and as such no prejudice will be caused if the applicant is being added as a party respondent in connection with GA No. 6 of 2017.

Considering the submission made by the Counsel for the respective parties, GA No. 11 of 2023 is allowed in terms of prayers (a), (b) and (c) of the Master's Summons.

GA No. 11 of 2023 is disposed of.

All other applications have been taken up for hearing together. At the time of hearing, learned Counsel for the petitioner in GA No. 6 of 2017 (Old No. GA No. 1864 of 2017), GA No. 7 of 2020 and GA No. 10 of 2022 submits that prayer (a), (b) and (c) made by the petitioner in GA No. 9 of 2021 in TS No. 5 of 2017 may be allowed. He further submits that if this Court allows prayers (a), (b) and (c) of the Master's Summons of GA No. 9 of 2021, the said orders shall be read that the schedule of property of the affidavit of assets in PLA application shall be read as :

"D. Residential House at Kolkata

Residential Flat at 1st Floor measuring 2400 Sq. fit., car parking space, guest room with attached toilet admeasuring 220 Sq. Ft. above covered Garage and roof rights at premises No. 36A, Dr. Rajendra Road, P.O. Elgin Road, Bhowanipore, Kolkata-700020".

As the petitioner in GA/6/2017, GA/7/2020 and GA/10/2022 has given consent for grant of probate of the last Will and Testament dated 29th December, 2008 executed by the testatrix Smt. Indumati Girjashankar Ojha also known as Smt. Indumati G. Ojha, this Court finds that no further order can be passed in connection with other miscellaneous applications i.e. GA/6/2017, GA/7/2020 and GA/10/2022.

As the petitioner in GA/6/2017, GA/7/2020 and GA/10/2022 has consented for grant of probate and all the legal heirs of the testatrix have given consent for grant of probate of the last Will and Testament, as such this Court finds that there is no circumstances to raise suspicion over the last Will and Testament dated 29th December, 2008 of the testatrix Smt.

Indumati Girjashankar Ojha also known as Smt. Indumati G. Ojha, accordingly prayer (a) of TS No.5 of 2017 is allowed.

It is found from the order passed by the Hon'ble Appellate Court in APO/353/2017 dated 6th November, 2017 the Original Will was directed to be kept in the custody of the Registrar, Original Side and be produced only pursuant to the judicial order before the appropriate Bench and accordingly, Registrar, Original Side is directed to handover the original Will to the Testamentary Department for grant of probate in terms of this order.

At the time of grant of probate, the affidavit of asset shall be read in terms of Serial No.6(D) as original not as modified.

In view of the above, TS/5/2017 along with GA/6/2017, GA/7/2020, GA/8/2021, GA/9/2021, GA/10/2022, GA/11/2023 are disposed of.

It is made clear that at the time of grant of probate, copy of the Will be made part of the probate.

(KRISHNA RAO, J.)