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IN THE HIGH COURT AT CALCUTTA
Testamentary & Intestate Jurisdiction
ORIGINAL SIDE

TS/26/2018

IA NO. GA/1/2018 (Old No: GA/558/2018)

IN THE GOODS OF : GIRINDRA KISHORE PAL CHOUDHURY, DEC.

AND

RANJUSREE PAL

-VS-

SUPARNA PAL CHOWDHURY & ORS.

BEFORE :

The Hon'ble JUSTICE KRISHNA RAO

Date 29th September, 2022.

Appearance:
Ms. Sarmila Das, Adv.
...For the Plaintiff/Petitioner.

ORDER

The Counsel for the respective parties are present. Counsel for the plaintiff submits that vide order dt. 13.11.2019, this Court has allowed the plaintiff to examine Shri Birendra Chandra Chakraborty as witness. The Counsel for the plaintiff submits that though this Court has allowed to

examine the said witness who is now aged about 87 years but has not passed an order for appointment of Commissioner to record the evidence of the said witness on Commission. Ld. Counsel for the plaintiff prays for appointment of any Advocate Commissioner for examination of the said witness on Commission as the said witness is aged about 87 years and is not in a position to appear before this Court is person.

Counsel for the defendant raised objection for appointment of Commissioner and submits that the application filed by the petitioner being Old GA 1311 of 2019 (GA 5 of 2019) is disposed of and in the said application, the plaintiff has prayed for the examination of the said witness either in Court or before any Officer may be appointed by this Hon'ble Court but this Hon'ble Court vide order dt. 13.11.2019 had allowed the plaintiff to examine the said witness but has not passed any order either in Court or before any Officer.

Learned Counsel for the defendant submits that the plaintiff has not filed any application for examination of witness on Commission and as this Court cannot pass any order for appointment of Commissioner for examination of the witness on Commission.

Considered, the submission of the respective parties. While passing the order dt. 13.11.2019, this Court has held that the witness namely, Birendra Chandra Chakraborty is aged about 84 years and now the witness may be 87 years. If any, Commissioner is appointed for examination of the said witness on

Commission, the defendant will get an opportunity to cross examine the said witness and the defendant will not prejudice in any manner whatsoever.

In view of the above, this Court inclined to appoint Ms. Sushmita Ghosh, Learned Advocate, Bar Library Club, 2nd Floor as Commissioner for examination of the witness namely Birendra Chandra Chakraborty at his residence. The fee of the Commissioner is fixed at Rs. 10,000/- per sitting which shall be borne by the plaintiff. The Learned Commissioner while fixing the date of examination of the witness shall notify the date to the Assistant Registrar of this Court in advance so as to enable the officer of this Court to produce the relevant record at the time of examination of the witness on Commission.

The Learned Commissioner is directed to complete the Commission on or before 30.11.2022 and to file report by 05.12.2022.

(KRISHNA RAO, J.)

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