

OD – 17

IN THE HIGH COURT AT CALCUTTA
Testamentary and Intestate Jurisdiction

ORIGINAL SIDE

TS/26/2018
IA NO: GA/1/2018(Old No:GA/558/2018),
GA/6/2023

IN THE GOODS OF:
GIRINDRA KISHORE PAL CHOUDHURY, DEC.
-AND-
RANJUSREE PAL
-VS-
SUPARNA PAL CHOWDHURY & ORS.

BEFORE :
THE HON'BLE JUSTICE BIVAS PATTANAYAK

Date : 6th August, 2024

Appearance :
Mr. A.C. Kar, Sr. Counsel,
Ms. Sarmila Das, Adv..
..for the plaintiff.

Mr. Asith Chowdhury, Adv.
Ms. Shomrita Das, Adv.
...for defendant no.2.

Mr. Bimalendu Das, Adv.
Mr. Shomrik Das, Adv.
...for defendant no.1.

The Court : Witness, Ms. Ranjusree Pal, is examined in part.

At the time of exhibiting the signature of the testator on the Will, objection has been raised by the defendant no.2 on the ground that the witness is not the proper person to identify the signature of the testator.

Mr. A.C. Kar, learned Senior Counsel appearing on behalf of the plaintiff submits that since the attesting witness has denied execution of the Will, Section 71 of the Evidence Act will apply to prove the execution of the Will by other evidences. Therefore, the witness having knowledge of the signature of

testator is proper person to identify such signature of the testator. In support of his contention he relies upon the decision of the Hon'ble Supreme Court passed in ***Janki Narayan Bhoir versus Narayan Namdeo Kadam*** reported in ***(2003) 2 SCC 91***.

Mr. Asith Chowdhury, learned Advocate for the defendant no.2, seeks accommodation to make his reply.

On 24th March 2023 the signatures of Rathin Saha appearing in the Will dated 30th November, 2006 was marked as Exhibit 6. On 18th August, 2023 the signature of Somnath Chakraborty appearing in the Will was marked as Exhibit 7. By order dated 31st July, 2024 the exhibits have been regularized by marking them alphabetically. Accordingly, Exhibit 6 should be read as Exhibit F and Exhibit 7 should be read as Exhibit G.

List this matter on 22nd August, 2024 at 2.30 PM.

The witness, Ms. Ranjusree Pal, is directed to remain present on the adjourned date.

(BIVAS PATTANAYAK, J.)

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