

OD-1

TS/1/2022
IA NO: GA/2/2022
IN THE HIGH COURT AT CALCUTTA
TESTAMENTARY AND INTESTATE JURISDICTION
ORIGINAL SIDE

IN THE GOODS OF: SRI DHIRENDRA MOHAN OJHA (DEC.)
-AND- SMRITIREKHA OJHA AND BIVA NANDY
VS
MUKTI OJHA (KUMAR), MALA OJHA (KUNDU) DIPTI OJHA, TRIPTI OJHA (ROY)
BANANI OJHA (INDU)

BEFORE:

The Hon'ble JUSTICE APURBA SINHA RAY

Date : 28th September, 2022.

Appearance:
Mr. Chandradoy Roy, Adv.
Mr. B. Kumar Dey, Adv.
Mr. Arun Goswami, Adv.
Ms. Anjana Banerjee, Advocate
... ... for plaintiffs.

Mr. Jayanta Sengupta, Advocate
Mr. Arnab Dutt, Advocate.
.....for caveatrix

The Court : The learned Advocate for the defendants have moved an application for injunction on behalf of the defendants who are daughters of Dharendra Mohan Ojha since deceased supported by an affidavit. One affidavit in opposition has been submitted on behalf of the plaintiff no. 1 on this day. Let it be kept with the record. In view of the ensuing puja vacation and also

considering the prayer of the petitioners, the injunction petition with ad interim prayer is taken up for hearing.

The learned Advocate appearing for the petitioners Mr. Jayanta Sengupta submits before this Court that the petitioners being daughters want to visit the house of their deceased father to see how their belongings are kept in the house and also to see the condition of their mother. The learned Advocate has also submitted that as the puja vacation is nearing, the petitioners have no time to file their written objection or reply against the affidavit in opposition submitted before this Court today. According to him, as the Will is disputed one and as the son of the plaintiff has yet to be declared as the owner of the property situated at Algoria Government Colony, P.S Noapara, P.S Barasat, now Duttapukur, North 24 Parganas, 700125, the petitioners have every right to visit their father's house.

The learned Advocate, Mr. Chandradoy Roy, has submitted that it is not the son of the deceased Dhirendra Mohan Ojha but the local political personnel resisted the petitioners from entering the house due to their political connection. In fact, the son of the deceased, namely, Mr. Anjan Ojha is a apolitical person and he has no role to prevent his sisters to enter into the house. The learned Advocate Mr. Roy has also submitted that in fact the mother of the petitioners is not willing to see her daughters. Therefore, there is no need to pass any ad interim order at this stage. The learned Advocate for the executor no. 1 has also submitted that the daughters of the deceased have nothing in the said house and as such the prayer for ad interim injunction is a misconceived one.

Perused. Considered.

After going through the materials on record, it is found that probate proceeding has not reached to its finality. As such considering all the aspects and also considering the fact that Durga puja is nearing, the petitioner's prayer for entering the house of their deceased father is allowed in part. The five petitioners are allowed to enter the relevant house at Algoria Government Colony, P.S Noapara, P.S Barasat, now Duttapukur, North 24 Parganas, 700125 on the day of Ekadashi i.e. 6th October, 2022 for four hours in presence of the learned Advocates of both sides. The petitioners are not entitled to remove any articles from the said house until further order.

This is purely a family dispute and it is expected amicable settlement makes inroad to this dispute with the intervention of the Learned Counsels of the parties.

Let this matter be fixed for further hearing on 18th November, 2022 and the petitioners are at liberty to file their affidavit in reply against the affidavit in opposition.

(APURBA SINHA RAY, J.)