

IN THE HIGH COURT AT CALCUTTA
TESTAMENTARY AND INTESTATE JURISDICTION
ORIGINAL SIDE

IA NO. GA 2 OF 2023
IN
TS 9 OF 2022
IN THE GOODS OF:
SUSTHIR MOITRA ALIAS SUSTHIR CHANDRA MOITRA (DEC.)
AND
SASANKA SEKHAR MOITRA AND ANR.
VS
INDRANI PAL CHAUDHURI ALIAS INDRANI PAL CHOWDHURY

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date : 18th January, 2024

*Appearance:-
Mr. Lalratan Mondal, Adv.
For plaintiffs
Mr. Manojit Bhattacharya, Adv.
For defendant*

The Court : This is an application by the plaintiffs in a testamentary suit for discovery and inspection of documents by the parties. By using the word “parties”, the plaintiffs are seeking an order to disclose documents as also for inspection thereof by the plaintiffs as also by the defendant. The plaintiffs without making this application could have themselves disclosed the documents and invited the defendant to disclose their document. There was no embargo in the plaintiffs carrying out the discovery and inspection of documents.

Neither Chapter XI of the Original Side Rules of this Court nor Order XI of the Code of Civil Procedure, 1908 (CPC) provides for a direction at the instance of the plaintiffs on the plaintiffs to disclose documents. Instead of seeking a direction upon the defendant to disclose documents and give inspection thereof, the plaintiffs under an incorrect advice has filed this application to obtain a direction upon themselves for disclosing the documents.

The Order XI Rule 12 of CPC and Rule 7A of Chapter XI of the Original Side Rules of this Court only provide for an application by a party to seek discovery of

documents by the other party without himself/herself disclosing the documents.

However, without further going into the merits of this application only for the purpose of expediting the suit the following directions are passed.

- (1) It will be open to the plaintiffs to affirm an affidavit of documents and disclose the documents they intend to rely upon and invite the defendant to take inspection of such documents. This exercise should be completed within 29th February, 2024.
- (2) Immediately after taking inspection of the documents, the defendant shall file her affidavit of documents and invite the plaintiffs to take inspection of the documents disclosed by the defendant. This exercise should be completed within 31st March, 2024.
- (3) After discovery and inspection of documents are over, the parties will be free to approach the department for placing the suit in the warning list.
- (4) The department, however, before placing the suit in the warning list shall ascertain as to whether the suit is ready upto the stage of framing of issues. Once the suit appears in the list before the appropriate Court, the parties shall bring their respective suggestive issues for framing of the issues.

Nothing further remains to be adjudicated in this application.

The application being GA 2 of 2023 is, accordingly, disposed of.

(ARINDAM MUKHERJEE, J.)