

OD-7 & 8

ORDER SHEET

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

IA No.GA/9/2022
In
TS/12/2019

IN THE GOODS OF :
TANMAY DATTA, DECEASED
-AND-
PIYUSH KANTI SINHA
-VS-
SAYANTANI PAL BASAK

AND

IA No.GA/10/2023
In
TS/12/2019

IN THE GOODS OF :
TANMAY DATTA, DECEASED
-AND-
PIYUSH KANTI SINHA
-VS-
SAYANTANI PAL BASAK

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date : October 4, 2023.

Appearance:
Mr. Debraj Sahu, Adv.
Mr. Snehashis Sen, Adv.
... for the petitioner

Ms. Juin Dutta Chakraborty, Adv.
... for the respondent

The Court: The applicant has filed the present application being
GA/10/2023 praying for the following orders : -

- a) The order dated 13th June, 2022 be recalled and/or modified and/or varied and further orders be passed;
- b) Record the death of Mr. Deb Shankar Basu and Mr. Piyush Kanti Sinha, being the joint executors of the Last Will and Testament of Late Tanmoy Datta;
- c) Leave be granted to the petitioner herein to furnish surety of an amount equivalent to Rs.7,63.131/- being 10% of the market value of the assets mentioned in the Last Will and Testament of Late Tanmoy Datta or such amount as this Hon'ble Court may deem fit and proper;
- d) Leave be granted to the petitioner to be substituted as the plaintiff in T.S. No. 12 of 2019 in place and stead of Mr. Deb Shankar Basu and Mr. Piyush Kanti Sinha, both since deceased, and to proceed to prove the Last Will and Testament of the deceased made and executed on December 30, 2014;
- e) Leave be granted to the petitioner to amend the probate petition in PLA 279 of 2017, which is being treated as the plaint in the testamentary suit being T.S. No.12 of 2019 in the manner as indicated in green ink in a copy of the plaint annexed to the affidavit in support of the Master Summons and marked with the letter "E";
- f) Department of this Hon'ble Court be directed to carry out the amendment as prayed for herein within a fortnight from the date of the order which may be made herein;

- g) Leave be granted to the petitioner to re-verify the plaint after the amendment has been given effect to;
- h) Pass such further order or orders, direction or directions be given as to this Hon'ble Court may deem fit and proper.

By an order dated 8th August, 2019 this Court on the prayer made by the learned counsel for the petitioner has recorded the death of one of the joint executors and granted leave to the surviving executor, namely, Piyush Kanti Sinha to take all necessary steps in the probate proceeding. By an order dated 13th June, 2022 passed in GA/9/2022, this Court has also recorded the death of the surviving executor and allowed the application in terms of prayers (a), (c), (d), (e), (f), (g) and (h) of the Master's Summons. At the time of compliance of the order dated 13th June, 2022 passed by this court, the office came to know that the petitioner has not prayed for recording the death of both the executors and for amendment in the prayers of the probate application. The petitioner has now filed present application being GA/10/2023 for amendment in the probate application. At the time of hearing of GA/10/2023 this Court has called for the report from the department and the department has clarified as to why the department has not complied with the order dated 13th June, 2022.

Accordingly, in terms of the report submitted by the office, the petitioner has filed the supplementary affidavit in GA/10/2023 after serving the copy to the learned counsel for the respondent by enclosing the proposed amended application.

Considered the submission made by the learned counsel for the respective parties.

Perused the application and the orders passed by this Court.

Prayers (b) to (g) of the Master's Summons are allowed.

GA/10/2023 is thus disposed of.

(KRISHNA RAO, J.)

RS