

PLA/441/2023
IN THE HIGH COURT AT CALCUTTA
TESTAMENTARY & INTESTATE JURISDICTION

IN THE GOODS OF :
LINA HALDER, DECEASED

BEFORE:

The Hon'ble JUSTICE BIVAS PATTANAYAK

Date: 14th August, 2024.

Mr. Kaushik Pradhan, Advocate for the
petitioner.

The Court : This application seeking grant of letters of administration has been made by the daughter-in-law of the deceased Lina Halder.

Mr. Kaushik Pradhan, learned Advocate for the applicant submits that the applicant does not fall in the category of the persons to whom the administration may not be granted as provided under Section 236 of the Indian Succession Act, 1925. Further Section 254 of the Indian Succession Act clearly provides that for administration of the estate the Court may exercise discretion granting it to such person as it deems fit and proper. More so, Sections 218 and 278 of the Indian Succession Act do not prohibit against grant of letters of administration in favour of outsider. Therefore, the daughter-in-law is entitled to grant of letters of administration in her favour. To buttress his contention, he relies on the decision of this Court passed in ***Smt. Malati Roy Chowdhury versus Sudhindranath Majumdar And Ors.*** reported in ***AIR 2007 CAL 4.***

In order to appreciate the submissions advanced on behalf of the petitioner it would be profitable to reproduce Section 254(1) of the Indian Succession Act hereunder :

“254(1) When a person has died intestate, or leaving a Will of which there is no executor willing and competent to act or where the executor is, at the time of the death of such person, resident out of the State, and it appears to the Court to be necessary or convenient to appoint some person to administer the estate or any part thereof, other than the person who, in ordinary circumstances, would be entitled to a grant of administration, the Court may, in its discretion having regard to consanguinity, amount of interest, the safety of the estate and probability that it will be properly administered, appoint such person as it thinks fit to be an administrator.”

Upon bare reading of the aforesaid provision of law it is quite clear that where it appears to the Court to be necessary or convenient to appoint such person to administer the estate or any part thereof, other than the person who, in ordinary circumstances, would be entitled to a grant of administration, the Court may in its discretion appoint such person as it thinks fit to be an administrator. The applicant herein is the daughter-in-law of the deceased and she does not fall within the category of persons mentioned in Section 236 of the Indian Succession Act which provides the category of persons to whom letters of administration cannot be granted. Further this Court finds substance in the submission of the learned Advocate for the petitioner that Section 218 read with Section 278 of the Indian Succession Act does not prohibit against grant to outsider relying on *Smt. Malati Roy Chowdhury (supra)*.

In view of the above, let there be an order in terms of prayer (a) of the petition.

The petitioner is directed to furnish a personal bond for a sum of Rs.19,00,000/- with two sureties.

The petition stands disposed of.

(BIVAS PATTANAYAK, J.)

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