

Misc. (Succession) - 45/2016

Order No.08/ dt.17.02.2017

Today is fixed for hearing of the case.

Both parties file hazira.

Petitioner files some documents by firsti and acceptance petition. The documents are accepted and let the same be kept with the record.

The record is taken up for hearing.

The Petitioner, Atunu M unsi is examined and cross-examined as P W-1 in full and discharged and during his examination original death certificate of Swapan Kumar M unsi being No.1454 is marked as **Exbt.1**, Original voter identity card being No. WB/42/291/195009 in the name of Swapan Kumar M unsi is marked as **Exbt.2** and savings pass book of the Birbhum District Central Co-operative Bank Ltd. being A/c No.113902 is marked as **Exbt.3**.

The Petitioner does not want to adduce further evidence.

The evidence on behalf of the petitioner is closed.

The O.P no.1, Krishna M unsi is examined and cross-examined as O.P. W.1 on behalf of all the O. Ps in full and discharged.

The O. Ps do not want adduce further evidence.

The evidence on behalf of the O. Ps is closed.

Accordingly evidence is closed.

The record is taken up for argument.

Hd. the argument in full.

The record is taken up for order.

Perused the case record as well as other materials on record.

Shorn unnecessary details, the fact of the case is in brief like that one Swapan Kumar M unsi died on 26.03.2015 at his residence i.e Rampurhat, ward no.4, Birbhum leaving behind the petitioner and O.P no.1 & 2 as his legal heirs. Other than the petitioner and O.P no.1 & 2, said Swapan Kumar M unsi has/had no legal heirs. At the time of his death he left the schedule mentioned assets amounting to Rs.1,35,137/- with interest, if any, for which the petitioner and O.P no.1 & 2 are entitled as successors.

The further case of the petitioner is that the petitioner, or any other persons never filed any application before any Court for getting succession certificate or letter of administration. Said deceased Swapan Kumar M unsi also did not execute any Will in respect of the schedule mentioned property in favour of any person during his lifetime. Further, Ld. Advocate for the petitioner has stated that the O.P no.1 & 2 in their w/o admitted that if the succession certificate in respect of the schedule mentioned asset is issued solely to the petitioner they have no objection. So, there is no bar to issue succession certificate in favour of the petitioner.

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Misc. (Succession) - 45/2016

Order No.08 Contd.../dt.17.02.2017

Per contra, the O.P no.1 & 2 appeared and filed w/o. They specifically stated in their w/o that upon demise of the deceased Swapam Kumar Munsi they and the petitioner are only legal heirs. Apart from them, there are no other legal heirs of the deceased. They further have stated in the w/o that the petitioner can get succession certificate in respect of the entire schedule mentioned asset.

Now let me allow to consider the pleadings and the materials on record to adjudicate the case.

WITNESSES EXAMINED

P. W.1	Atunu Munsi, the petitioner.
O.P. W.1.	Krishna Munsi, the O.P no.1.

DOCUMENTS EXHIBITED

Exbt.1	Original death certificate of Swapam Kumar Munsi being No.1454.
Exbt.2	Original voter identity card being No. WB/42/291/195009 in the name of Swapam Kumar Munsi.
Exbt.3	Savings pass book of the Birbhum District Central Co-operative Bank Ltd. being A/c No.113902.

Ld. Advocate for the petitioner submitted that petitioner is the son, O.P no.1 is the wife, and O.P no.2 is the daughter of deceased Swapam Kumar Munsi. He also submitted that other than the petitioner and O.P no.1 & 2, there are no other legal heirs of the deceased Swapam Kumar Munsi. The O.Ps raised no objection regarding the claim of the petitioner. The petitioner is able to prove his case beyond any doubt. Accordingly, he is entitled to get succession certificate in respect of entire schedule mentioned asset.

Per contra, Ld. Advocate for the O.Ps has stated that O.Ps have admitted the claim of the petitioner. The O.Ps have relinquished their share in favour of the petitioner as mentioned in the w/o.

Further, the Ld. Advocate for the petitioner has submitted that the petitioner is bound to file bond as required by law.

Considering the above submission and perusing the case record and oral and documentary evidence I find that Swapam Kumar Munsi died on 26.03.2015 leaving behind the schedule mentioned assets. The death of deceased Swapam Kumar

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Order No.08 Contd.../dt.17.02.2017

Munsi is proved by Exbt.1. From the pleadings and evidence, it is clear to me that apart from the petitioner and O.Ps, there are no other legal heirs of the deceased. More so, even after due publication of 'Ajkal Patrika' dt.09.11.2016 none appears and opposes.

Further, from the Exbt.3 i.e Savings pass book of the Birbhum District Central Co-operative Bank Ltd. being A/c No.113902. it appears to me that deceased left the schedule mentioned assets i.e amounting to Rs.1,35,137/-. So, there is no rival contention and circumstances which go against the petitioner. Accordingly, I have no hesitation to believe the contentions and pleadings of the petitioner.

The petitioner and the O.Ps are the successors of the deceased Swapan Kumar Munsi.

Accordingly, the petitioner is able to prove his case.

Hence, it is

O R D E R E D

that the Misc (succession) case be and the same is thus considered and stands allowed on contest against the O. Ps.

Issue Succession certificate in respect of the schedule mentioned property in favour of the petitioner subject to the debts and securities of the deceased Swapan Kumar Munsi and after compliance of all the legal formalities and procedure i.e after submission of indemnity bond for said amount with one local surety and after furnishing proper Court fees and producing photocopies of identity proof.

Accordingly, the case is disposed of.

However, there is no order as to costs.

Dictated & corrected

Civil Judge(Jr. Div.) 2nd court

Rampurhat Birbhum

Date :17.02.2017

Civil Judge(Jr. Div) 2nd Court

Rampurhat Birbhum

Date :17.02.2017