(1912) 07 CAL CK 0041

Calcutta High Court

Case No: None

Musammat Parasania and her Death, Her Heiress and Legal Representative Sarup Dassin	APPELLANT
Vs	
Hari Charan Dass and Another	RESPONDENT

Date of Decision: July 3, 1912

Citation: 16 Ind. Cas. 588

Hon'ble Judges: Beachcroft, J; Ashutosh Mookerjee, J

Bench: Division Bench

Judgement

1. This appeal is directed against an order for grant of Letters for Administration to the estate of one Mahantha Ganga Dass who died in 1904. He appears to have left a widow, a daughter and a son though he is described as Mahantha; the son came into possession of the properties, and had his name registered in the Collectorate, and died in 1908. On the 20th September 1909, the respondent, claiming to be the chela of the deceased Mahantha, made this application for Letters of Administration. He stated explicitly that as an attempt had been made by the son of the deceased Mahantha to take possession of the estate, that is, the Asthol, a certificate might be granted to him under Act V of 1881. The District Judge granted the application because he was satisfied that the widow of the deceased Mahantha was endeavouring to keep the property as if it belonged to her husband personally. It is clear that this order cannot be supported.

2. It was pointed out by this Court in the case of Mahant Jib Lal Gir v. Mahant Jaga Mohan Gir 16 C.W.N. 798 : 16 Ind. Cas. 453. that a Mahantha is not the owner of the property of the Math and on his death, a person claiming to be his successor-in-office cannot apply under Act V of 1881 for Letters of Administration in respect of the Math property. It is further clear that there are no assets to be administered in this case. There is no suggestion that any debts have to be collected or any dues have to be paid. As was explained in the case of Lakshmi Narain v.

Nanda Rani 9 C.L.J. 116 : 3 Ind. Cas. 287 where the object of the litigation appears to be not to administer the estate left upon the death of the deceased but merely to obtain a declaration of heirship, so as to fortify the position of the successful party in a regular suit that may be instituted, no grant ought to be made. It is clear, therefore, that on both these grounds, the appeal must succeed. The result is that this appeal is allowed, the decree of the Court below set aside and the application dismissed with costs in both the Courts. We assess the hearing fee in this Court at two gold mohurs.