

(1910) 06 CAL CK 0054
In the Calcutta High Court

Durga Das Misser

APPELLANT

Vs

Rauha Raman Misser and Another

RESPONDENT

Date of Decision : 15-06-1910

Acts Referred:

Citation : 7 Ind. Cas. 1

Hon'ble Judges : Woodroffe, J;Richardson, J

Bench : Division Bench

Judgement

Woodroffe, J.—In this case the learned District Judge has refused Letters of Administration on the grounds, first, that there is a dispute as to whether the petitioner is the nearest heir of the deceased, and, secondly, that there is a dispute as to the title of the deceased to the properties mentioned by the petitioner. On the ground that there is such a dispute; and without deciding the dispute in any way, he has refused to grant Letters of Administration.

2. Now, as regards the question of title of the deceased to the properties, that is not a matter which is dealt with by the Probate Court at all. It may be that the deceased had property, or it may be that she had not. It may be that if she had property and her interest ceased on her death; and the fact that Letters of Administration may be granted to a person would not entitle that person to hold any property other than that to which the deceased was herself entitled, that is to say, property which forms a portion of her estate. And property in which she had a life-interest only would form no portion of her estate.

3. As regards the question as to whether the petitioner is the nearest heir to the deceased, that is a matter which, I think, should be settled.

4. I would, therefore, remand the case to the learned District Judge to determine the question as to who is the nearest heir to the deceased and who is entitled to Letters of Administration; and I would direct that each party do bear his, own costs.

Richardson, J.

5. I agree.