

(2003) 07 AHC CK 0126

In the Allahabad High Court

Case No : Civil Miscellaneous Application No. 91085 of 2003 (Paper No. 8-A) and Civil Miscellaneous Application No. 110200 of 2003 (Paper No. A-9) in Testamentary Case No. 10

In the matter of the Goods

APPELLANT

Vs

Late Sahadeo Singh

RESPONDENT

Date of Decision : 10-07-2003

Acts Referred:

Allahabad High Court Rules, 1952 — Chapter 30, 26, 30, 31, 9

Citation : (2003) 07 AHC CK 0126

Hon'ble Judges : S.P.Mehrotra, J

Final Decision : Disposed Of

Judgement

S.P. Mehrotra, J.—The aforesaid Civil Miscellaneous Application No. 90185 of 2003 has been filed on behalf of the petitioners/applicants, inter alia, praying for allowing one month's time for depositing the requisite Court fees so that the letters of administration may be issued to the petitioners/applicants. The said application is supported by an affidavit of Smt. Sumitra Singh (petitioner/applicant No. 1) sworn on 19th May, 2003.

2. The aforesaid Miscellaneous Application No. 110200 of 2003 has been filed on behalf of the petitioners/applicants on 9th July, 2003 annexing thereto the Court fee worth Rs. 44,750.

3. It appears that by the order dated 8th April, 2002, it was directed as follows :

?Let letters of administration be granted to the applicants with will annexed of the estate of the late Sahdeo Singh after a certificate to be issued by the Registrar General, regarding sufficiency of Court fees, under Chapter XXX Rule 9 of the Rules of the Court.?

4. By the order dated 472003 passed by this Court on Civil Misc. Application No. 92267 of 2003 in Testamentary Case No. 18 of 2002 (In the matter of the Goods of late Ravinder Kumar), it has been held that in view of the provisions of

Chapter XXX, Rule 31 read with Rules 9, 26 and 30 of the Rules of the Court, 1952, the petitioner after the order for grant of probate or letters of administration is passed by the Court, is required to take prompt steps for deposit of Court fee so that he may be able to give the required security, proceed with the application, and take out the grant within three months from the date of the order for grant.

5. It has further been held in the said order that in case there is any delay on the part of the petitioner in making payment of Court fee, the Court has power to condone the delay, and enlarge/extend the period for payment of Court fee.

6. As noted above, the order for grant of letters of administration with will annexed in favour of the petitioners/applicants was passed by this Court on 842002. Thus, the Court fee submitted alongwith the aforesaid Civil Miscellaneous Application No. 110200 of 2003 filed on 9th July, 2003 is evidently beyond time.

7. It is submitted by the learned Counsel for the petitioners/applicants that even if there was delay in payment of Court fee, the applicants have shown sufficient cause for the said delay in the affidavit accompanying the aforesaid Civil Miscellaneous Application No. 91085 of 2003, and as such, the delay may be condoned.

8. I have perused the said affidavit. It is, inter alia, stated in the said affidavit that the petitioners/applicants due to financial constraints could not deposit the requisite Court fee, as prescribed under law, and that now the applicants have made arrangements and are ready to deposit the same.

9. Having heard learned Counsel for the petitioners/applicants and having considered the assertions made in the affidavit accompanying the aforesaid Civil Miscellaneous Application No. 91085 of 2003, I am of the opinion that sufficient cause has been shown by the petitioners/applicants for the delay in making the payment of Court fee.

10. In the circumstances, the delay in making the payment of Court fee is condoned, and the time for making the payment of Court fee is enlarged/extended till 9th July, 2003 on which date the petitioners/applicants have submitted the Court fee alongwith the aforesaid Civil Miscellaneous Application No. 110200 of 2003. Office will now proceed with the matter.

11. The aforesaid applications are disposed of accordingly.