

OD-7

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Testamentary and Intestate Jurisdiction
ORIGINAL SIDE

PLA/149/2019

IN THE GOODS OF SUSHIL KUMAR
MOULIK (DEC)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: 14TH DECEMBER, 2022.

Appearance:
Mr. Dhilan Sengupta, Adv.
Mr. S. Shil, Adv.

The Court: Counsel for the petitioner is present. The petitioner Mrs. Dipti Roy had filed the instant application for grant of probate of the Will dated 11th May, 2012 executed by the testator Sushil Kumar Moulik appointing the Dibyendu Moulik, Ardhendu Moulik, both sons of late Anil Kumar Moulik as well as Dipti Roy, wife of late U. P. Roy as executors of the said last Will and Testament. In the said Will the testator had made Smt. Mala Moulik also as one of the beneficiary. Sushil Kumar Moulik died on 20th January, 2013. The father and mother of Mr. Sushil Kumar Moulik were pre deceased to Sushil Kumar Moulik. Sushil Kumar Moulik had no issue. The brother of Sushil Kumar Moulik namely Anil Kumar Moulik had four issues out of which one son Purnendu Kumar Moulik died on 30th August, 1994 leaving behind his wife Mala Moulik.

Counsel for the petitioner submits that though the executor has executed the Will with respect of two properties namely premises No. 6, Station Lane (2nd Floor), District- South 24 Parganas, Kolkata-700031 and

flat No. 52D, Babubagan, Ground Floor, Kolkata-700031. After execution of the Will but before his death he has disposed of one of the properties that is Flat No. 52 D, Babubagan, Kolkata-700031. Now only the one property is remaining.

Counsel for the petitioner submits that though the executor has executed Will by appointing three executors but in the meantime, one of the executors namely Ardhendu Moulik died on 28th February, 2014 after the death of the testator and the said Ardhendu Moulik was unmarried. The other executor namely Dibyendu Moulik has filed affidavit of consent.

Counsel for the petitioner further submits that one of the attesting witness namely Alope Kumar Das had also filed the affidavit in support of the Will.

Counsel for the petitioner submits that as none has objected for grant of probate of the Will dated 11th May, 2012 with respect of one of the properties, he has prayed for grant of probate as per the Will dated 11th May, 2012.

Considered the prayer made by the Counsel for the petitioner, the original Will, death certificate of Sushil Kumar Moulik, affidavit and attesting witness namely Alope Kumar Das.

The witness Alope Kumar Das in his affidavit has categorically mentioned that on 11th May, 2012 the executor has executed the Will in his presence as well as in presence of other attesting witness namely Somit Ghosh by bequeathing the properties to his nephew and niece and widow of the nephew. The attesting witness further submitted in his affidavit that at the time of execution of the Will the executor was possessing good health and was in fit state of mind.

Considering the submission made by the Counsel for the petitioner and the documents available on record, this Court finds that the petitioner is able to prove the Will and accordingly, the petitioner is entitled to get probate in respect of the Will dated 11th May, 2012. This Court also finds that there is no circumstances to suspect over the Will dated 11th May, 2012.

Accordingly, prayer (a) of the application is allowed subject to completion of all formalities. At the time of grant of probate the copy of the Will may be annexed as part of the probate.

PLA NO. 149 of 2019 is disposed of.

(KRISHNA RAO, J.)

Sbghosh