

OD – 10

ORDER SHEET
PLA/99/2009
IN THE HIGH COURT AT CALCUTTA
TESTAMENTARY AND INTESTATE JURISDICTION
ORIGINAL SIDE

IN THE GOODS OF
PURUSOTTAM BANERJEE (DEC)

BEFORE:

The Hon'ble JUSTICE SUGATO MAJUMDAR

Date : 22ND SEPTEMBER, 2022.

Appearance:
Mr. U. Betal, Adv.

The Court : The instant application is filed praying for probate of the last will and testament of the testator Purusottam Banerjee who breathed his last on 09th May, 2001 at Kolkata. Prior to death, the Testator executed his last will and testament on 20th September, 1987 and appointed his eldest son as a sole executor of the will.

Mr. Kamallesh Banerjee and Dr. Bikash Chatterjee were two attesting witnesses of the will.

Affidavit-of-Assets and *ad valorem* Court Fees paid.

Both the attesting witnesses breathed their last prior to filing of the instant application. After filing of the instant application for probate, one attending witness Jyotsna Banerjee filed an affidavit stating therein that she was present at the time of execution of the will; that the testator put his signature in her presence and the attesting witnesses put and affix their respective signatures on the last will and testament after signature of the

testator on the date of execution of the will. She further affirmed that she is well acquainted with the respective signatures. The attending witnesses further affirmed that at the time of execution of the will in question, the testator was physically fit and mentally alert and had testamentary capacity to dispose of property by testamentary instrument.

After filing of the affidavit, the said attending witness Smt. Jyotsna Banerjee expired. Her signatures in the affidavit were examined by handwriting expert who stated in his written opinion on comparing signatures, that the affidavit bears signatures of the attending witness. Let the report of the handwriting expert, being admissible, be kept in record.

Once the affidavit of the attending witness is accepted, on being certified by the hand-writing expert, it proves the execution of the will under Section 69 of the Indian Evidence Act, and the facts that the will was executed in terms of Section 63 of the Indian Succession Act.

Accordingly, it is the conclusion that the last will and testament of the testator dated 20th September, 1987 is proved without being controverted in any manner.

Let the probate be granted accordingly.

(SUGATO MAJUMDAR, J.)