

ORDER SHEET

TS/13/2010

IN THE HIGH COURT AT CALCUTTA
Testamentary & Intestate Jurisdiction
ORIGINAL SIDE

IN THE GOODS OF :
AMALENDU DUTT (DEC)
-AND-
SATYA NARAYAN KULTHIA
-VS-
SAUMITRA DUTTA

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date : August 23, 2023.

Appearance :
Mr. Aniruddha Mitra, Adv.
Ms. Somali Bhattacharya, Adv.
...for the petitioner

The Court: Counsel for the petitioner is present.

The petitioner has filed the present application for grant of probate of the last Will and Testament dated 12th August, 1999.

The testator died on 15th April, 2007 leaving behind three legal heirs, i.e. his wife Arati Dutt, his son Saumitra Dutt and his daughter Sanjukta Dutt.

After filing of the instant application by the petitioner, the son and the wife of the testator have filed their caveat.

During the pendency of the instant application, the wife of the testator, Arati Dutt died on 23rd march, 2012 and the daughter Sanjukta Dutt died on 19th January, 2012. The daughter was unmarried.

After the death of the wife and the daughter of the testator, the son of the testator has filed his affidavit praying for withdrawal of his caveat

and has submitted no objection for grant of probate of the last Will and Testament dated 12th August, 1999 in favour of the executor.

As per the affidavit submitted by the son, the case was treated as non-contentious cause.

To prove the case, the petitioner has examined two witnesses, namely, Balkishan Gupta and Satya Narayan Kulthia, who is the executor of the Will.

The witness Balkishan Gupta is the one of the attesting witnesses of the Will and during his evidence he has proved the Will and identified the signatures of the testator and the attesting witnesses. Accordingly, the Will was marked as Exhibit-A and signatures of the testator were marked as Exhibit-A/1 and A/4 and the signatures of the attesting witnesses have been marked as Exhibit A/2 and A/3.

Counsel for the petitioner submits that the petitioner has proved the Will by examining the attesting witness and prayed for grant of probate.

Considered the submission made by the counsel for the petitioner.

Perused the original Will, Death Certificates of the testator, his wife and his daughter and affidavit of his son.

This Court finds that there is no circumstance to create any suspicion over the execution of the Will. The attesting witness also stated that the testator has executed the Will in his presence and in presence of the other attesting witnesses while possessing good health and fit state of mind.

This Court finds that the petitioner has proved the Will and is entitled to get the probate of the Will dated 12th August, 1999.

In view of the above, prayer (a) of the application is allowed subject to compliance of all the formalities.

At the time of grant of probate, a copy of the Will be made part of the probate.

TS/13/2010 is disposed of.

(KRISHNA RAO, J.)