

OD-6

ORDER SHEET

TS/7/2015

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

IN THE GOODS OF:
AMAL KUMAR MITRA (DEC)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : May 10, 2023.

Appearance:

Mr. Satadeep Bhattacharya, Adv.

Mr. Amartya Pal, Adv.

...for the plaintiff

Mr. D. K. Chandra, Adv.

...for the defendant

The Court: Counsel for the plaintiff and counsel for the defendant are present.

Affidavit-of-service filed in Court is taken on record.

Counsel for the defendant has handed over a letter dated 8th May, 2023 wherein Sunanda Das and Sulagna Mitra have informed the learned advocate that they have no objection for grant of probate to the petitioner.

Let the communication filed in Court be kept with the record.

The petitioner has filed the present application for grant of probate of the last Will and Testament dated 9th February, 2006 executed by the testator Amal Kumar Mitra. After issuance of citation, one of the legal heirs, namely, Anuradha Das has filed her caveat and affidavit in support of caveat.

Accordingly, PLA application being no. 249/2013 is converted to the testamentary suit.

During the pendency of the present suit, Anuradha Das has expired on 29th October, 2022 leaving behind her husband and daughter, namely, Sunanda Das and Sulagna Mitra. Now the legal heirs, i.e. husband and the daughter are not interested to proceed with the caveat filed by Anuradha Das and submitted that they have no objection for grant of probate to the petitioner.

The plaintiff to prove the Will has examined two witnesses i.e. Anil Kumar Bera and Dr. Phalguni Pal.

Sri Anil Kumar Bera, who is one of the attesting witnesses of the Will, during his evidence, has categorically stated that the testator has executed the Will in his presence and has put his thumb impression in his presence while appointing the petitioner as executor of the said Will. The attesting witness has also identified the thumb impression as well as his signature. The attesting witness during his examination identified the Will executed by the testator and the same is marked as Exhibit- 'C', the signature of the attesting witness was marked as Exhibit-'B' and the thumb impression of the testator was marked as Exhibit-'A'.

P.W.-2 is the doctor, namely, Dr. Phalguni Pal and during his evidence he has also stated that the testator was sick and he informed the witness that he intends to execute a Will and accordingly on 9th February, 2006 the testator

has executed the Will in his presence and in presence of the attesting witnesses and the testator has put his thumb impression in the said Will in his presence.

Considered the submission made by the counsel for the petitioner.

Perused the evidence of the witness, original Will, death certificate and the no objection letter submitted by the legal heirs of the deceased Anuradha Das. This Court finds that the petitioner has proved the Will and there is no circumstances to create any suspicion over the Will.

Accordingly, the petitioner is entitled to get probate in terms of the last Will and Testament dated 9th February, 2006.

In view of the above, prayer (c) of the instant application is allowed subject to completion of all necessary formalities.

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

TS/7/2015 is disposed of accordingly.

(KRISHNA RAO, J.)