

OD-103

ORDER SHEET

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

TS/15/2012
IA No. GA/3/2012 (Old No. GA/2705/2012)

IN THE GOODS OF :
PRAN GOUR SARKAR (DEC)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: 29th March, 2023.

Appearance:

Mr. Ayan Dutta, Adv.
Mr. Ranjit Kumar Basu, Adv.

Ms. Dipika Banu, Adv.
Mr. Subhadip Chakraborty, Adv.

The Court: Counsel for the petitioner is present.

Caveatrix, namely, Shukla Sarkar Das is present in person before this Court and submits that she will not contest the instant probate proceedings and she has already given consent for grant of probate to the executor.

The petitioner has filed the instant application for grant of probate of the last Will and Testament of the deceased testator Pran Gour Sarkar dated 19th February, 2004.

Counsel for the petitioner submits that the testator has appointed the petitioner as sole executor of his last Will and Testament. Counsel for the petitioner submits that the testator died leaving behind his wife and three daughters. Neither the wife nor the two daughters have come forward or lodged any caveat. The third daughter, namely, Shukla Das now she is

known as Shukla Sarkar Das has initially filed her affidavit in support of caveat but now she does not want to proceed with the caveat filed by her and has given consent for grant of probate to the executor. The Will was executed in presence of two attesting witnesses, out of which, one of the attesting witness, namely, Saibal Maitra has filed his affidavit. Counsel for the petitioner submits that as the petitioner has proved the Will, probate may be granted to the petitioner.

Considered the submission made by the counsel for the petitioner.

Perused the application, original Will, statement made by the caveatrix, namely, Shukla Sarkar Das before this Court in person and the affidavit filed by the attesting witness.

It appears that in spite of issuance of citation, other than one of the legal heirs, none appears either by giving consent or by filing caveat. The attesting witness filed affidavit wherein he has stated that the testator had executed the Will on 19th February, 2004 in presence of the attesting witnesses and had signed the said Will in their presence. In the said affidavit it is further stated that the testator had appointed the petitioner as executor of his last Will and Testament. In the affidavit, it further reveals that the testator had executed the Will while possessing good health and fit state of mind. From the death certificate it is proved that the testator died on 02.12.2008.

Considered the submission made by the counsel for the petitioner.

Perused the report as mentioned above.

This Court finds that the petitioner has proved the Will and accordingly, is entitled to get probate of the last Will and Testament dated 19th February, 2004.

Accordingly, prayer (a) of the petition is allowed subject to compliance of all formalities.

It is made clear that at the time of issuance of probate, a copy of the Will be made part of the probate.

TS/15/2012 is disposed of.

Interim application, if any, pending be treated as disposed of.

(KRISHNA RAO, J.)