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IN THE HIGH COURT AT CALCUTTA
TESTAMENTARY & INTESTATE JURISDICTION
ORIGINAL SIDE

TS 9/2016
PLA 288/2015

IN THE GOODS OF:
DEBDAS ROY @ RAY, DECEASED
AND
BINATA BHADRA CHAUDHURY
VERSUS
BINA CHOWDHURY & ANR.

BEFORE:
The Hon'ble Justice APURBA SINHA RAY
Date : 30th August, 2023

APPEARANCE:
Ms. Arunima Lala, Adv.
Mr. Triptimoy Talukdar, Adv.
...for the plaintiff.

The Court :- One Debdas Roy executed one Will in favour of his sister Binata Bhadra Chaudhury wife of Late Sibapada Bhadra Chaudhury on 26.11.2012. The said Debdas Roy died on 08.06.2015. It is also found that on 05.10.2015 the petitioner Binata Bhadra Chaudhury filed a petition being No. PLA 288 of 2015 praying for granting of probate in her favour. Accordingly, general and special citations were issued by the court to the legal heirs of Debdas Roy, since deceased, on 30.11.2015. On 20.01.2016 two caveats were filed by Bina Chowdhury and Mita Roy. Subsequently, the matter became contentious and

the same was numbered as Testamentary Suit 9 of 2016. When after compliance of necessary formalities the instant suit was taken up for hearing on 31.08.2016, Bina Chowdhury and Mita Roy submitted their written consent supported by affidavits whereby they have specifically stated that they have no objection if the probate is granted in favour of Binata Bhadra Chaudhury. The Said Bina Chowdhury and Mita Roy have been examined on oath touching their respective affidavits.

Subsequently, by an order dated 16.08.2023 the petitioner was asked to prove formally the relevant Will and important documents by producing concerned witnesses.

Accordingly, the petitioner Binata Bhadra Chaudhury and one of the attesting witnesses, viz Sri Anindya Choudhury have been examined as PW1 and PW2 respectively. The Will and the Death Certificate of the testator Debdas Roy have been proved formally and they have been marked as exhibits.

After going through the materials on record it appears that there is no adverse material or evidence against the execution of the Will in favour of the petitioner at the instance of the testator Debdas Roy, since deceased. After considering all the materials including the statement of the attesting witness Sri Anindya Choudhury, this court finds that there is no legal impediment to allow the prayer of the petitioner for granting the probate in her favour.

Accordingly, the instant suit be and the same is allowed. The probate of the Will of Debdas Roy executed on 26.11.2012 be granted in favour of the

petitioner Smt. Binata Bhadra Chaudhury wife of Sibapada Bhadra Chaudhury subject to payment of necessary stamp duty and court fees as applicable.

The Testamentary Suit No. 9 of 2016 along with applications, if any, are disposed of

(APURBA SINHA RAY, J.)

P.A./M. Das