

OD-17

ORDER SHEET

PLA/93/2020

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

IN THE GOODS OF :
DR. BIRESWAR BOSE (DEC.)

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date : January 19, 2023.

Appearance :
Mr. Sunil Kumar Chakraborty, Adv.
... for the petitioner

The Court: Counsel for the petitioner is present and submits that the petitioner has filed the instant application for grant of probate in terms of the last Will and Testament of the deceased testator Dr. Bireswar Bose dated 20th January, 2011.

Counsel for the petitioner submits that the wife of the testator was predeceased to the testator and the testator died on 3rd March, 2018 without any issue. Counsel for the petitioner submits that in terms of the Will, the petitioner was appointed as an executor. The testator had executed the Will in presence of three attesting witnesses, out of which, two attesting witnesses have filed their affidavits. The petitioner has taken appropriate steps for issuance of general as well as special citation but in spite of completion of all formalities, none has come forward to file any caveat and accordingly, the department has also submitted a report stating that no caveat has been entered against the grant of probate. Counsel for the petitioner prays for grant

of probate to the petitioner in terms of the last Will and Testament of the deceased dated 20th January, 2011.

Considered the prayer made by the counsel for the petitioner.

Perused the original Will and death certificate, affidavits of attesting witnesses and the report of the department.

It appears that the attesting witnesses in their affidavits have categorically stated that the testator had executed the Will in their presence by appointing the petitioner as executor and at the time of execution of the Will the testator was in fit state of mind and was possessing good physical health.

Considering the submission made by the counsel for the petitioner and the documents, as mentioned above, this Court finds that the petitioner has been able to prove the Will and accordingly, the petitioner is entitled to get probate in respect of the last Will and Testament dated 20th January, 2011.

In view of the above, prayer (c) of the application is allowed.

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

PLA/93/2020 is disposed of.

(KRISHNA RAO, J.)