

ORDER SHEET

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

PLA/115/2020
IA No. GA/3/2022

IN THE GOODS OF:
SUDHIR KUMAR DEY (DECEASED)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: August 17, 2023.

Appearance:

Mr. Subhasis Sarkar, Adv.

Mr. Sankar Kumar Samanta, Adv.

...for the petitioner

The Court: Counsel for the petitioner is present.

The petitioner has filed the present application for grant of probate with respect of Will dated 29th July, 2018 executed by testator Sudhir Kumar Dey by appointing the petitioner as executor of his last Will and Testament. The testator died on 10th January, 2020 and his wife Anima Dey was predeceased. The testator leaving behind three legal heirs, namely, Anuradha Dey i.e. the wife of predeceased son, Sheuli Podder (Nee Dey) i.e. the grand daughter and the daughter of predeceased son and the petitioner herein Pardip Kumar Dey being the son.

After filing of the instant application for grant of probate, the citation was issued and both the legal heirs have received the citation by speed post but in spite of receipt of the citation, no caveat has been lodged. The petitioner has also filed the affidavit of one of the attesting witnesses of the Will, namely, Amarjit Sardar.

Counsel for the petitioner submits that the testator has executed the Will by appointing the petitioner as executor and none has objected for grant of probate and the attesting witness has also supported the Will. Accordingly, the petitioner has prayed for grant of probate of the Will dated 29th July, 2018.

Considered the submission made by the counsel for the petitioner.

Perused the original Will, citation issued upon the legal heirs, death certificate of the testator and his wife and the affidavit of the attesting witness.

In the affidavit the attesting witness has categorically stated that the testator has executed the Will dated 29th July, 2018 in his presence and in presence of the other attesting witness by appointing the petitioner as executor of his last Will and Testament and at the time of execution of the said Will, the testator was possessing good health and fit state of mind.

Considering the submission made by the counsel for the petitioner, this Court finds that the petitioner has able to prove the Will and there is no circumstances to create any suspicion over the execution of the Will dated 29th July, 2018.

Accordingly, the petitioner is entitled to get probate of the Will.

In view of the above, prayer (c) of the PLA/115/2020 is allowed subject to completion of all formalities.

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

PLA/115/2020 along with GA/3/2022 is disposed of.

(KRISHNA RAO, J.)