

IN THE HIGH COURT AT CALCUTTA
(Testamentary & Intestate Jurisdiction)

ORIGINAL SIDE

Present:

The Hon'ble Justice Krishna Rao

PLA 129 of 2020

**In The Goods Of :
Bejoya Devi (Dec.)**

Mr. Samrat Mukherjee

Mr. Dakshayani Basu

.....For the petitioner

Heard on : 30.03.2023

Judgment on : 04.05.2023

Krishna Rao, J.: -

The petitioner has filed the instant application for grant of Letters of Administration of the last Will and Testament dated 23rd March, 1958 of the deceased Bejoya Devi wife of late Hira Lal Chakravarty. The testatrix had executed her last Will and Testament on 23rd March, 1958 by appointing Shri Bimal Prasanna Bhattacharyya and Shri Asit Kumar Bhattacharji as her executors. Sriman Gobindo and Sriman Arabinda have been made as beneficiary of the said Will. The testatrix died on 29th March, 1962. Bimal Prasanna Bhattacharyya who is one of the executor of the Will was

unmarried and died on 10th April, 2016 and the other Executor of the Will namely Asit Kumar Bhattacharji died intestate on 29th January, 2005. Asit Kumar Bhattacharji left behind three daughters namely Sudhamoye Bhattacharyya, Annapurna Bhattacharjee and Urmila Bhattacharya, two granddaughters, namely Mitali Bhattacharjee @ Mita and Kaberi Bhattacharyya @ Rita, two great granddaughters, namely Mahua Ghosh and Madhushree Ghosh, one great grandson Shri Amit Bhattacharya and two grandsons Tanmoy Chakraborty @ Gobindo Chakraborty (the petitioner herein) and Dr. Arun Kumar Bhattacharji.

During the pendency of the instant application, Sudhamoye Bhattacharya, Annapurna Bhattacharjee and Urmila Upadhyay expired and their death has been recorded. In spite of issuance of citation upon Sudhamoye Bhattacharya, Annapurna Bhattacharjee and Urmila Upadhyay, Mahua Ghosh and Madhushree Ghosh have neither lodged any caveat nor have given their consent. The other legal heirs, namely Amit Bhattacharya, Mitali Bhattacharjee, Kaberi Bhattacharya, Dr. Arun Kumar Bhattacharji, Protip Kumar Bhattacharjee have filed their consent for grant of Letters of Administration to the petitioner. One of the attending witnesses of the Will, namely Arun Kumar Bhattacharji has also filed his affidavit in support of Will. The petitioner had examined Dr. Arun Kumar Bhattacharji being the attending witness of the Will on Commission. During his examination, Dr. Arun Kumar Bhattacharji stated that in his presence, the testatrix had executed Will and has identified the said Will and the same was marked as Exhibit-A. In his evidence, he has also stated that he used to reside with

testatrix in her house and his presence, the executrix has executed her last Will. The witness during his evidence has also identified the signature of the attesting witnesses and the signatures were marked as Exhibit A/1, A/2, A/3, A/4 & A/5. He has also stated that the witnesses have also signed the Will in his presence.

Considered the submission made by the Counsel for the petitioner perused the Will, Death Certificate of the deceased and other legal heirs, affidavit-of-consent of the legal heirs and the evidence of the attending witness. This Court finds that the petitioner has proved the case and thus the petitioner is entitled to get the Letters of Administration as prayed for by the petitioner.

In view of the above, prayer (b) of the instant application is allowed. Subject to furnishing personal bond of Rs. 25,00,000/- with two sureties.

PLA 129 of 2022 is thus allowed.

(Krishna Rao, J.)