

ORDER SHEET

PLA/173/2019

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

IN THE GOODS OF:
JUGAL KISHORE PATODIA (DEC)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : September 22, 2023.

Appearance:
Mr. Amritam Mandal, Adv.
...for the petitioner

The Court: Mr. Amritam Mandal, learned advocate, is appearing for the petitioners.

The petitioners being the joint executors of the last Will and Testament dated 15th January, 2007 have filed the present application for grant of probate.

The testator had executed his last Will and Testament on 15th January, 2007. The testator died on 12.02.2007 leaving behind his wife and two sons. Before filing of the present application, the wife of the testator also expired on 20th September, 2012 leaving behind two sons. One son, namely, Sree Prakash Patodia has filed his affidavit of consent but the other son, namely, Ram Prakash Patodia, neither has filed affidavit of consent nor has filed any caveat or affidavit in support of caveat even after issuance of general citation and publication of the notice in the newspapers.

One of the attesting witnesses, namely, Krishna Kumar Tibrewala, has also filed his affidavit in support of the Will.

Counsel for the petitioner prays for grant of probate of the last Will and Testament dated 15th January, 2007.

Considered the submission made by the counsel for the petitioner.

Perused the original Will, death certificate of the testator, affidavit of consent of the son Sree Prakash Patodia and affidavit of the attesting witness. In the affidavit, the attesting witness has categorically stated that the testator has executed the last Will and Testament by appointing the petitioners as executors of his last Will and Testament in his presence and in presence of the another attesting witness, namely, Arun Kumar Agarwal. The attesting witness has also stated that the testator has executed the Will while possessing good health and fit state of mind.

Considering the submission made by the counsel for the petitioner and the documents as mentioned above, this Court finds that the petitioners have proved the Will and there is no circumstances to create any suspicion over the execution of the Will.

Accordingly, the petitioners are entitled to get probate of the last Will and Testament dated 15th January, 2007.

Prayer (c) of the probate application is allowed subject to compliance of all formalities.

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

PLA/173/2019 is thus disposed of.

(KRISHNA RAO, J.)