

OD-9

ORDER SHEET  
IN THE HIGH COURT AT CALCUTTA  
Testamentary and Intestate Jurisdiction  
ORIGINAL SIDE

PLA/160/2020

IN THE GOODS OF-  
LAKSMAN PRASAD JAISWAL (DEC.)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: 30<sup>TH</sup> March, 2023.

Appearance:  
Mr. Subhankar Chakraborty, Adv.  
Mr. Saptarshi Bhattacharjee, Adv.  
..for the petitioner

The Court: Counsel for the petitioner is present.

The petitioner has filed the instant application for grant of probate of the last Will and Testament dated 11<sup>th</sup> August, 2013 executed by the testator Laksman Prasad Jaiswal.

Counsel for the petitioner submits that the testator died on 2<sup>nd</sup> June, 2014 and the wife of the testator died on 4<sup>th</sup> September, 2015 leaving behind eight legal heirs that is four sons and four daughters. Out of four daughters whereabouts one of the daughter namely, Rani Jaiswal is not known for the last several years.

Counsel for the petitioner submits that except the daughter namely, Rani Jaiswal, all the legal heirs have filed their affidavit of consent for grant of probate to the petitioner as per the Will.

As whereabouts of the daughter namely, Rani Jaiswal is not known, paper publication was also made but in spite of paper publication, she has neither come forward for giving consent nor filed caveat or affidavit in support of caveat.

The Department has submitted the report certifying that no caveat has been lodged.

Counsel for the petitioner further submits that one of the attesting witnesses of the Will has also submitted the affidavit. Counsel for the petitioner prays for grant of probate to the petitioner as per the Will and Testament dated 11<sup>th</sup> August, 2013.

Considered the submission made by the Counsel for the petitioner. Perused the application, original Will, death certificate, affidavit of legal heirs, paper publication and the report of the office as well as affidavit of attesting witness.

The attesting witness namely, Sunil Jaiswal in his affidavit has categorically stated that the testator has executed the Will on 11<sup>th</sup> August, 2013 in their presence and has also put his signature in presence of the attesting witness wherein the testator has appointed the petitioner herein as executor of the last Will and Testament. The attesting witness also stated that the testator has executed the Will while possessing good health and fit state of mind.

Considering the submission and the documents as mentioned above, this Court finds that the petitioner is able to prove the Will and accordingly, the petitioner is entitled to get probate as there is no circumstances to raise suspicion over the Will dated 11<sup>th</sup> August, 2013.

Accordingly, prayer (c) of the application is allowed.

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

PLA No. 160 of 2020 is disposed of.

(KRISHNA RAO, J.)

Sbghosh