

OD-7

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

PLA/58/2015

IN THE GOODS OF : LATE MIHIR LAL MITRA (DECEASED)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: 09th January, 2023.

Appearance:
Mr. S. Sengupta, Adv.
Mr. S. Prasad, Adv.

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 of the testator Mihir Lal Mitra executed on 7th March, 2007.

Counsel for the petitioner submits that the testator, died on 12th August, 2011 leaving behind three legal heirs, that is, wife Smt. Debrani Mitra and two sons namely, Mr. Debasis Mitra and Mr. Debanjan Mitra.

Counsel for the petitioner submits that petitioner has taken steps for Special Citation and General Citation but in spite of the same none has appeared to object for grant of probate. No caveat is filed.

Counsel for the petitioner also submits that in terms of the order passed by this Court paper publication was also made but in spite of paper publication none has come forward for object for grant of probate.

One of the attesting witnesses of the Will namely Prabuddha Basu had filed his affidavit wherein he has stated that the testator has executed the Will in his presence and in presence of another attesting witness and at the time of execution of the Will, the testator was in a fit state of mind and was possessing good health.

Considering the submission made by the Counsel for the petitioner, the original Will, death certificate and the affidavit of attesting witness, this Court finds that though the testator had died leaving behind three legal heirs, that is, wife and two sons, but in spite of service of notices and publication of notice none appears to object for grant of probate as prayed for by the petitioner.

Considering the affidavit submitted by the attesting witness, wherein the attesting witness has categorically stated that the testator has executed the Will by appointing the petitioner as executor in his presence and at the time of execution of the Will the testator was possessing good health and was in fit state of mind. Considering the submission and documents, this Court finds that there is no circumstances to create any suspicion over the execution of the Will executed by the testator on 7th March, 2007.

In view of the above, this Court finds that the petitioner is able to prove the Will and accordingly, the petitioner is entitled to get probate in terms of the Will dated 7th March, 2007 executed by the testator Mihir Lal Mitra.

In view of the above, probate is granted to the petitioner in terms of the last Will and Testament of the deceased Mihir Lal Mitra dated 7th March, 2007 on compliance of all formalities.

At the time of grant of probate the copy of the Will be annexed as per the probate.

Accordingly, PLA 58 of 2015 is disposed of.

(KRISHNA RAO, J.)

Sbghosh