

ORDER SHEET

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

PLA/231/2020

IN THE GOODS OF:
SUKUMAR DAS (DECED)

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date: March 24, 2023.

Appearance:
Mr. Subir Banerjee, Adv.
Mr. S. Abedin, Adv.
Ms. Pooja Singh, Adv.
...for the petitioner

The Court: The petitioner has filed the instant application for grant of probate of the last Will and Testament dated 10th February, 2014 of the testator Sukumar Das. The testator died on 11th July, 2019.

Counsel for the petitioner submits that the testator has executed the Will on 10th February, 2014 by appointing the petitioner as executor of his last Will and Testament and the said Will was duly signed by the two attesting witnesses.

Counsel for the petitioner submits that the wife of the testator was predeceased and there were no issue between the wedlock. Two brothers of the testator are also predeceased. Two heirs, namely, Ganesh Das, brother of the deceased & Usha Rani Maji, sister of the deceased, have filed their affidavit of consent. Whereabouts of another sister of the testator, namely, Minoti Das, is not known to any of the persons for the last 30 years. Special Citation by way of paper publication was also made but no caveat has been filed.

Counsel for the petitioner submits that as the surviving heirs have filed their affidavit of consent and the attesting witnesses have also filed their affidavit in support of the Will executed by the testator and prayed for grant of probate.

Considered the submission made by the counsel for the petitioner.

Perused the original Will dated 10th February, 2014, death certificate of the testator, affidavit of the legal heirs and affidavit of attesting witnesses.

The attesting witnesses in their affidavit have stated that the testator has executed the Will in their presence while possessing good health and fit state of mind. The attesting witnesses also stated that in their presence the testator has signed the said Will by appointing the petitioner as executor.

Considering the above materials on record, this Court finds that the petitioner has proved the Will and there is no circumstances to create any suspicion over the execution of the Will. Accordingly, the petitioner is entitled to get probate in terms of the Will dated 10th February, 2014.

Prayer (d) 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/231/2020 is disposed of.

(KRISHNA RAO, J.)