

ORDER SHEET

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

PLA/242/2018

IN THE GOODS OF:
TAPAN KUMAR TALUKDAR (DEC)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: March 24, 2023.

Appearance:
Mr. Jit Roy, Adv.
Md. Jalaluddin, Adv.
...for the petitioner

The Court: The petitioner has filed the instant application for grant of probate of the last Will and Testament dated 30th January, 2017 executed by the testator Tapan Kumar Talukdar.

Counsel for the petitioner submits that the testator has executed his last Will and Testament in presence of two attesting witnesses by appointing the petitioner as sole executor of his last Will and Testament. Counsel for the petitioner submits that the testator died leaving behind three legal heirs, i.e. mother, son and daughter. Though all steps have been taken for issuance of special citation and general citation but none of the legal heirs of the testator has come forward either by giving consent or by filing objecting for grant of probate.

Counsel for the petitioner submits that marriage between the testator and his wife was dissolved by way of a decree of divorce and he has also filed the certified copy of the decree of divorce between the testator and his wife. The attesting witnesses of the Will have also filed their affidavit.

Counsel for the petitioner submits that the testator died on 30th August, 2017 and prayed for grant of probate as per the Will dated 30th January, 2017.

Considered the prayer made by the counsel for the petitioner.

Perused the original Will, death certificate, affidavit of the attesting witnesses and report of the office.

From the report of the office, it appears that in spite of issuance of special citation as well as general citation, none has filed Caveat. The attesting witnesses by way of affidavit have submitted that the testator has executed the Will on 30th January, 2017 in their presence by appointing the petitioner as executor and while executing the said Will the testator was in fit state of mind and was possessing good health. The attesting witnesses also submitted that the testator has signed the said Will in their presence.

Considering the above materials on record, this Court finds that the petitioner is able to prove the Will and there is no circumstances to create any suspicion over the execution of the Will dated 30th January, 2017. Accordingly, the petitioner is entitled to get probate in terms of the Will dated 30th January, 2017.

Prayer (a) of the probate application is allowed subject to completion of all formalities.

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

PLA/242/2018 is disposed of.

(KRISHNA RAO, J.)