

ORDER SHEET

PLA/322/2019

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

IN THE GOODS OF :  
ASHOK KUMAR SARKAR (DEC.)

BEFORE:  
The Hon'ble JUSTICE KRISHNA RAO  
Date : January 31, 2023.

Appearance :  
Mr. Ramesh Ch. Paul, Adv.  
Ms. Riya Dutta, Adv.  
...for the petitioners

The Court: Counsel for the petitioners is present and submits that the testator Ashok Kumar Sarkar had executed a Will on 2<sup>nd</sup> March, 2011 in presence of two attesting witnesses by appointing the petitioners as executors of his last Will and Testament. The testator died on 20<sup>th</sup> August, 2017 leaving behind seven legal heirs, out of which five legal heirs have filed their affidavits-of-consent and two legal heirs have neither filed their consent nor filed their caveats. The office has also submitted report wherein it is certified that no caveat has been entered against the grant of probate of the last Will and Testament of the testator.

Counsel for the petitioner submits that the attesting witness, namely, Sikha Deshmukh, has also filed the affidavit wherein she has also submitted that the testator has executed the Will in her presence as well as in presence of the another attesting witness while possessing good health and fit state of mind. Counsel for the petitioner prays for grant of probate of the Will to the petitioner.

Considered the submission made by the counsel for the petitioner.

Perused the original Will, death certificate, affidavits of consent of the legal heirs, report of the office as well as the affidavits of the attesting witnesses. The legal heirs have categorically stated that they have no objection for grant of probate in respect of the last Will and Testament of the petitioner and the attesting witnesses have stated that the testator has executed the Will on 2<sup>nd</sup> March, 2011 in their presence and at the time of execution of the said Will, the testator was possessing good health and fit state of mind.

Considering the above submission and the documents, this Court finds that there is no circumstances to create any suspicion over the Will and the petitioner is able to prove the Will. Accordingly, the petitioner is entitled to get probate of the last Will and Testament dated 2<sup>nd</sup> March, 2011 on completion of all formalities.

In view of the above, the department is directed to issue probate after completion of all formalities.

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

PLA/322/2019 is disposed of.

(KRISHNA RAO, J.)