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

PLA/403/2018

IN THE GOODS OF : SURESH
KUMAR AGARWAL (DEC)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: 03RD JANUARY, 2023.

Appearance:
Mr. Amal Kumar Saha, Adv.
Mr. Iresh Paul, Adv.

The Court: Counsel for the petitioner is present and submits that on 6th December, 2022 the learned junior Counsel has inadvertently submitted before this Court that no affidavit of attesting witness is filed but the said submission is not correct. The affidavit of attesting witness of the Will namely, Suresh Kumar Agarwal is already on record.

Counsel for the petitioner submits that the testator Suresh Kumar Agarwal died on 26th April, 2018 leaving behind four legal heirs that is wife Kamlesh Agarwal and two daughters namely Ritu Gupta and Nitu Chaudhary and one son Amit Agarwal, the executor and the petitioner herein.

Counsel for the petitioner submits that all the legal heirs have filed their affidavit of consent for grant of probate and one of the attesting witnesses, Suresh Kumar Agarwal, has also filed affidavit.

Counsel for the petitioner prays for grant of probate.

Considering the submissions made by the Counsel for the petitioner the original Will, death certificate of the deceased, Suresh Kumar Agarwal,

affidavits of legal heirs of the deceased and affidavit of attesting witness. The attesting witness in his affidavit has categorically stated that the testator has executed the Will on 11th August, 2017 in his presence as well as in presence of another attesting witness.

He further submitted that at the time of execution of the Will, the testator was fit state of mind and was possessing good health.

He further stated that the testator has executed the Will after read over the contents of the Will.

Considering the submission made by the Counsel for the petitioner and the documents as mentioned above, this Court finds that the petitioner is able to prove the Will executed by the testator on 11th August, 2017 and as such petitioner is entitled to get probate.

Accordingly, prayers (a) and (b) of the probate application are allowed.

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

PLA No. 403 of 2018 is disposed of.

(KRISHNA RAO, J.)