

ORDER SHEET

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

PLA/224/2016

IN THE GOODS OF:
DR. SHAKUNTALA PATWARI (DEC.)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: March 1, 2023.

Appearance:
Ms. Madhumita Patra, Adv.
...for the petitioner

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 dated 20th March, 2016 executed by the testatrix Dr. Shakuntala Patwari.

Counsel for the petitioner submits that the testatrix was unmarried and died on 11th April, 2016 leaving behind six legal heirs, i.e. two brothers, one sister, one sister-in-law and two nephews. The petitioner is one of the brothers who is the executor of the last Will and Testament of the testatrix Dr. Shakuntala Patwari. Counsel for the petitioner submits that the sister-in-law Namita Gupta and one of the nephews Adarsh Gupta had filed their affidavits stating the fact that they have no objection for grant of probate to the petitioner as per the Will and initially the other legal heirs i.e. Bimal Kumar Patwari, Raj Kumari Singhania and Anand Gupta had filed their caveat but subsequently they have been discharged from the caveat. The

testatrix had executed the Will in presence of two attesting witnesses, namely, Vishal Kumar Gupta and Pratap Singh. Out of the two attesting witnesses, one of the attesting witness, Vishal Kumar Singh, has filed his affidavit and submitted that the testatrix had executed her last Will and Testament in their presence on 20th March, 2016 by appointing the petitioner as executor and at the time of execution of the Will, the testatrix was able-bodied and was in fit state of mind.

Considered the prayer made by the counsel for the petitioner.

Perused the original Will, death certificate, affidavits of Namita Gupta and Adarsh Gupta as well as affidavit of attesting witness Vishal Kumar Gupta.

This Court finds that as per the affidavit of the attesting witness, the testatrix had executed the Will while possessing good health and fit state of mind in presence of the two attesting witnesses.

In view of the above, this Court finds that the petitioner has proved the Will and there is no circumstances to create any suspicion over the said Will. The petitioner is entitled to get the probate.

Accordingly, prayer (c) of the instant application is allowed.

At the time of grant of probate, on compliance of all formalities, a copy of the Will be made part of the said probate.

PLA/224/2016 is disposed of.

(KRISHNA RAO, J.)