

ORDER SHEET

PLA/240/2016

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

IN THE GOODS OF:
DURGARANI DEVI (DECEASED)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : July 7, 2023.

Appearance:

Mr. Sarosij Dasgupta, Adv.

The Court: Counsel for the petitioner is present.

The petitioner has filed the present application for grant of probate of the last Will and Testament dated 14th October, 2003 of the testatrix, namely, Durgarani Devi @ Durgarani Chatterjee.

Counsel for the petitioner submits that during the lifetime, the testatrix had executed a Will on 14th October, 2003 by appointing the petitioner as executor of her last Will and Testament. The testatrix died on 17th April, 2004 leaving behind six legal heirs, out of which one legal heir, namely, Jyotish Chandra Chatterjee i.e. the son of the testatrix also expired on 10th February, 2017 who is also a legatee of the said Will. The husband of the testatrix had predeceased to her. The legal heirs of Jyotish Chandra Chatterjee have filed their affidavit stating that they have no objection for grant of probate to the petitioner. None of the legal heirs have come forward either to file consent or to object for grant of probate. The Registrar, Testamentary & Intestate Jurisdiction of this Court has submitted a report that in spite of issuance of general and special citation, none appears and no

caveat has been lodged. One of the attesting witnesses of the Will, namely, Rita Mukherjee has also filed her affidavit stating that the testatrix had executed her last Will and Testament on 14th October, 2003 in Bengali language in presence of two other attesting witnesses, namely, P. Roy Chowdhury and Santanu Chatterjee. In the said affidavit, it is further stated that the testator had executed the Will in their presence while possessing good health and fit state of mind. Counsel for the petitioner submits that the petitioner has proved the Will and entitled to get probate.

Considered the submission made by the counsel for the petitioner.

Perused the original Will, death certificate, affidavit of the legal heirs Jyotish Chandra Chatterjee and affidavit of the attesting witness and the report of the Registrar, Testamentary & Intestate Jurisdiction, 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.

Prayer (c) of PLA 240 of 2016 is allowed.

Office is directed to issue probate to the petitioner after compliance of all formalities and after payment of ad valorem Court fess, if not paid.

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

PLA/240/2016 is thus disposed of.

(KRISHNA RAO, J.)