

IN THE HIGH COURT AT CALCUTTA
TESTAMENTARY AND INTESTATE JURISDICTION

PLA No. 4 of 2023

IN THE GOODS OF:

SMT. KALPANA CHOWDHURY, DECEASED

BEFORE:

The Hon'ble JUSTICE APURBA SINHA RAY

Date: 25th April, 2024

Appearance:
Ms. Susmita Pal, Adv.
Ms. Suparna Biswas, Adv.
For the plaintiff.

The Court:- The instant PLA matter has been initiated by the executor, Biswa Bandhu Chowdhury, in respect of last Will of Smt. Kalpana Chowdhury since deceased. According to him, she was a spinster and at the time of her death was governed by Dayabhaga School of Hindu Law. Kalpana Chowdhury died on 31.08.2015 at Howrah District Hospital, Howrah, leaving behind her two nephews and one niece as her only heirs. The death of the said Kalpana Chowdhury was registered with the Kolkata Municipal Corporation on 28.12.2015.

Prior to her death, the deceased made and published her last Will and Testament in Bengali language on 9th March, 2012 which was registered in Book No. III, Volume No.1, Pages 433 to 440, Being No. 00047, for the year 2012

before the Additional District Sub-Registrar, Bidhan Nagar, District: North 24 Parganas.

The original Will was lost and a General Diary (GD) was lodged on 17.01.2020 at Barasat Police Station. A copy of the General Diary (GD) has been annexed with the original application.

The petitioner being the executor filed the instant application. From the record it appears that citations were made and none of the legal heirs raised any objection.

As the original Will has been lost, the petitioner examined two witnesses, namely Pradip Debnath and Biswa Bandhu Chowdhury as PW-1 and PW-2 respectively.

It further appears from the said deposition that Mr. Pradip Debnath was one of the attesting witnesses. According to him, he was present at the time of execution of the relevant Will and further he was present when testatrix put her signature on the Will. He has also identified the signatures of the testatrix on the Will. The said witness has further deposed that at the time of execution of the Will the testatrix was in the state of sound mind and was physically fit. The said attesting witness has also identified the signature of another attesting witness, namely Amitava Samajpati.

The witness no.2, Mr. Biswa Bandhu Chowdhury, has stated on oath that he could not produce the original Will as he lost the same at the time of photocopying the said Will. He lost the original Will in the xerox centre at Barasat Court. He has lodged a complaint with the Barasat Police Station. He produced the GD Entry, which has been marked as Exhibit "A" (formal proof being

dispensed with). He has also stated that the registration of the said Will was done at Salt Lake Registry Office. He has stated on oath that other legal heirs, namely his brother and sister, Bikash Bandhu Chowdhury and Kanta Ghosh have given their consent.

In view of the above deposition and materials on record, I find that the prayer for grant of probate can be allowed in favour of the petitioner as he has been able to prove his case in accordance with law.

Accordingly, the application being PLA No. 4 of 2023 is allowed.

Let there be an order in terms of prayers [a] and [b] of the original application subject to compliance of all legal formalities.

The petition is, thus, disposed of.

(APURBA SINHA RAY, J.)