

ORDER SHEET

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

PLA/70/2024

IN THE GOODS OF :
SUSHILA DEVI CHOUDHARY, DECEASED

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : December 16, 2024.

Appearance:

Mr. Aman Agarwal, Adv.
Mr. Sanjiv Kr. Trivedi, Adv.
Mr. Sanket Sarawgi, Adv.
...for the petitioner

The Court: Mr. Aman Agarwal, learned advocate, is appearing for the petitioner.

The petitioner has filed the present application for grant of probate of the last Will and Testament dated 28th September, 2020 executed by the testatrix Sushila Devi Choudhary.

Counsel for the petitioner submits that the husband of the testatrix was predeceased, who died on 6th October, 2020. The testatrix died on 11th March, 2023. The testatrix was issueless and she left behind four legal heirs, i.e. three brothers-in-law and one sister-in-law. Out of the four legal heirs, three legal heirs have filed their affidavit-of-consent and another legal heir, namely, Shyam Sundar Choudhury, has neither come forward for giving affidavit-of-consent or filing affidavit in support of caveat. Accordingly, citations were issued but in spite of receipt of citations, Shyam Sundar

Choudhury has not come forward for filing affidavit in support of caveat or affidavit of consent. After issuance of citations, the office has submitted no caveat certificate stating that no caveat has been lodged for grant of probate.

Counsel for the petitioner submits that testatrix has executed her last Will and Testament in presence of two attesting witnesses and both the attesting witnesses have filed their affidavits stating that the testatrix has executed her last Will and Testament by appointing the petitioner as her sole executor and at the time of execution of the last Will and Testament, the testatrix was in fit state of mind and was able bodied. Counsel for the petitioner submits that the petitioner has proved the Will and is entitled to get the probate.

Considered the submission made by the counsel for the petitioner. Perused the Will, death certificate of the testatrix, death certificate of the husband of the testatrix, no caveat certificate, affidavit-of-consent of the three legal heirs and affidavits filed by the attesting witnesses.

All the legal heirs in their affidavit have stated that they have no objection for grant of probate of the last Will and Testament to the petitioner.

The attesting witnesses have categorically stated that the testatrix has executed her last Will and Testament by appointing the petitioner as sole executor while possessing good health and fit state of mind.

Considering the above, this Court finds that the petitioner has proved the Will and there is no circumstance to create any suspicion over the execution of the said Will. Accordingly, the petitioner is entitled to get probate.

The department is directed to issue probate to the petitioner of the last Will and Testament dated 28th September, 2020 after completion of all formalities.

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

PLA/70/2024 is disposed of.

(KRISHNA RAO, J.)