

OD-10

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE
TESTAMENTARY AND INTESTATE JURISDICTION

PLA/43/2022

IN THE GOOD OF:

FOOSRAJ NAHATA DECED

VS

NA

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: 5th December, 2024.

Appearance:
Mr. Rohit Banerjee, Adv.
Ms. Kanchan Janu, Adv.
... for the petitioner.

The Court: Mr. Rohit Banerjee, 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 11th June, 2015 of the testator Mr. Foosraj Nahata.

Counsel for the petitioner submits that the wife of the testator was pre-deceased to him. The testator has executed the Will by appointing the petitioner as sole executor of last Will and Testament. He submits that the testator died leaving behind three sons and five daughters as mentioned in

paragraph 6 of the present application. Counsel for the petitioner submits that all the legal heirs of the testator have filed their affidavit of consent for grant of probate of the Will to the petitioner who is also one of the son of the testator. The petitioner says that the testator has executed the Will in presence of two attesting witnesses. Out of the two attesting witnesses, one of the attesting witness, namely Mrs. Komal Nahata, has also filed an affidavit stating that the testator has executed the last Will and Testament on 11th June, 2015 by appointing the petitioner as sole executor while possessing good health and fit state of mind. Counsel for the petitioner submits that the petitioner has proved the Will as none of the legal heirs raised any objection and one of the attesting witnesses has categorically stated that the testator has executed the Will in his presence by appointing the petitioner as sole executor while possessing good health and fit state of mind.

Heard learned Counsel for the petitioner. Perused the original Will, original death certificate of the testator, his wife, affidavit of consent of all the legal heirs of the testator and the affidavit of the attesting witness namely, Mrs. Komal Nahata.

Considering the above, this Court finds that all the legal heirs have categorically mentioned in their affidavit that they have no objection for grant of probate to the petitioner. The attesting witness namely Mrs. Komal Nahata, in her affidavit has categorically stated that the testator has executed his last Will and Testament on 11th June, 2015 in her presence and in presence of the another attesting witness by appointing the petitioner as executor of his last

Will and Testament and at the time of execution of the Will he was possessing good health and fit state of mind.

Considering the above, this Court finds that there are no circumstances for suspicion about the execution of the Will by the testator. Accordingly, the petitioner is entitled to get the probate of the last Will and Testament dated 11th of June, 2015.

The department is directed to grant probate to the petitioner of the Will dated 11th of June, 2015 after compliance of all formalities. At the time of grant of probate, a copy of the Will be made as part of the probate.

PLA No. 43 of 2022 is disposed of.

(KRISHNA RAO, J.)