

ORDER SHEET

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

PLA/109/2023

IN THE GOODS OF:
PRASANTA SANYAL, DECEASED

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : November 21, 2024.

Appearance

Ms. Dipika Banu, Adv.
Mr. S. Chakraborty, Adv.
Ms. Susmita Sen, Adv.
Ms. Bolivia Roy, Adv.
...for the Petitioner

The Court : Ms Dipika Banu, learned Advocate, is appearing for the petitioner.

The petitioner has filed the present application being PLA/109/2023 praying for grant of probate of the last Will and Testament dated 18th September, 2019 of the deceased Prasanta Sanyal, son of late Pratap Shankar Sanyal @ Pratap Sankar Sanyal.

Counsel for the petitioner submits that the testator had executed his last Will and Testament by appointing the petitioner as executor of his last Will and Testament.

Counsel for the petitioner submits that in the Will the testator has categorically stated that his wife was predeceased and he had no issue and the mother and father had also predeceased the testator. Counsel for the petitioner submits that the testator died on 18th February, 2020 and one of the attesting witnesses has also filed his affidavit in support of the Will

stating that the testator has executed his last Will and Testament by appointing the petitioner as executor while possessing good health and fit state of mind. She submits that testator died leaving behind no legal heirs. Accordingly, general citations were issued which was published in the English daily newspaper as well as Bengali newspaper but in spite of publication of general citation, none had come forward for filing any caveat to object for grant of probate of the last Will and Testament. Accordingly, Office has also provided no caveat certificate confirming that no caveat has been lodged.

Counsel for the petitioner submits that petitioner has proved the execution of the Will and the petitioner may be granted probate in terms of the last Will and Testament dated 18th September, 2019.

Heard the learned counsel for the petitioner.

Perused the original Will, death certificate, affidavit of the attesting witness, publication made by the petitioner as well as no caveat certificate issued by the department.

This Court finds that after filing of the suit, general citations were issued by way of publication but none appears to object the Will and subsequently the department has also issued no caveat certificate.

To prove the Will, the petitioner has filed the affidavit of the attesting witness, namely, Sumana Shyamal who has categorically stated in her affidavit that the testator has executed his last Will and Testament in her presence by appointing the petitioner as executor while possessing good health and fit state of mind.

Considering the submission made by the counsel for the petitioner and after going through the documents as mentioned 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 Will and the petitioner is entitled to get the probate.

Accordingly, the department is directed to grant probate of the last Will and Testament dated 18th September, 2019 to the petitioner on compliance of all formalities.

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

PLA/109/2023 is disposed of.

(KRISHNA RAO, J.)