

ORDER SHEET

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

PLA/182/2024

IN THE GOODS OF-
DR MRS MOMOTA CHOWDHURY @ MOMOTA CHOWDHURY (DECEASED)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: November 21, 2024

Appearance :

Mr. Soumendra Nath Sanyal, Adv..
...for the petitioners.

The Court: Mr. Soumendra Nath Sanyal, learned Counsel, is
appearing for the petitioners.

The petitioners have filed the present application for grant of
probate of the last Will and Testament dated 2nd May, 2009 executed by Dr.
Mrs. Momota Chowdhury.

Learned counsel for the petitioners submits that the husband of
the testatrix was predeceased to her. The testatrix during her lifetime has
executed her last Will and Testament on 2nd May, 2009 by appointing the
petitioners as executrix and executor of her last Will and Testament.

He submits that executrix died on 8th May, 2021 leaving behind
the petitioners as her legal heirs. Petitioners submit that the Will was
executed in presence of the independent witnesses. Out of the two attesting
witnesses, one of the attesting witnesses, namely, Bapu Sircar has also
affirmed his affidavit in support of Will. He prays for grant of probate of the
last Will and testament dated 2nd May, 2009.

Heard the learned counsel for the petitioner.

Perused the application, death certificate of the testatrix and the affidavit of the attesting witness, namely, Bapu Sircar.

It is found that on 2nd May, 2009 the executrix has executed her last Will and Testament by appointing the petitioners being the son and daughter as executor and testatrix of her last Will and Testament. From the death certificate it is found that the testatrix died on 8th May, 2021. The attesting witness of the Will namely Bapu Sircar has categorically stated in his affidavit that the testatrix had executed her last Will and Testament during her lifetime on 2nd May, 2009 in his presence and in presence of other attesting witness by appointing the petitioners as executor and executrix while possessing good health and fit state of mind.

Considered the submission made by the learned counsel for the petitioner and the documents as mentioned above.

This Court finds that the petitioners have proved the Will and are entitled to get the probate of the Will dated 2nd May, 2009.

Accordingly, the department is directed to grant probate to the petitioners of the Will dated 2nd May, 2009 on completion of all the formalities. At the time of grant of probate, the copy of the Will be made part of the probate.

PLA/182/2024 is disposed of.

(KRISHNA RAO, J.)