

OD-26

ORDER SHEET

PLA/354/2019

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

IN THE GOODS OF :
RITA SEN (DEC.)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : January 2, 2024.

Appearance :

Mr. Debdeep Sinha, Adv.

Ms. Adrisnata Chakraborty, Adv.

... for the petitioner

The Court: Mr. Debdeep Sinha, learned counsel, is appearing for the petitioner.

The petitioner has filed the present application being PLA/354/2019 for grant of probate of the last will and testament dated 14th September, 2015 executed by the testatrix Rita Sen, widow of Ram Prasad Sen by appointing the petitioner as the sole executrix of her last will and testament.

The Registrar in Insolvency of this Court has filed the report dated 24.11.2023 wherein it reveals that in terms of the order passed by this Court dated 14th February, 2020, general citation as well as special citation were issued upon Radha Sen who is one of the daughters of the testatrix but the special citation could not be served upon the legal heirs and was returned unserved with the endorsement 'no such person at given address'. Subsequently, by an order dated 30th March, 2023, this Court has allowed

the substituted service of special citation upon Radha Sen by way of publication once in daily newspaper, 'The Times of India' having circulation at Goa and accordingly, the same was done and in spite of that publication, no caveat has been filed and the office of the Registrar has submitted 'no caveat certificate' on 8th August, 2023.

Counsel for the petitioner submits that the testatrix has executed her last will and testament on 14th September, 2015 by appointing the petitioner as the sole executrix of her last will in presence of two witnesses. The two witnesses, namely, Swagata Chowdhuri and Shankar Kumar Chatterjee have also filed their affidavits stating the fact that the testatrix had executed her last Will and Testament on 14th September, 2015 in their presence by appointing the petitioner as the sole executrix of her last Will and Testament and at the time of execution of her last Will, the testatrix was possessing good health and fit state of mind. The testatrix died on 27th June, 2019 leaving behind her two daughters i.e. the petitioner and Radha Sen.

Considered the submission made by the counsel for the petitioner.

Perused the Will, death certificate, no caveat certificate, report of the Registrar in Insolvency and the affidavits of the attesting witnesses.

This Court finds that the petitioner has proved the Will by filing the affidavits of attesting witnesses wherein it has been categorically mentioned that the testatrix has executed her last Will and Testament by appointing the petitioner as the sole executrix of her last Will while possessing good health and fit state of mind.

In view of the above, the petitioner is entitled to get probate in terms of prayer (a) of the application.

The Department is directed to issue probate after compliance of all formalities. At the time of grant of probate, a copy of the will be made part of the probate.

PLA/354/2019 is disposed of.

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(KRISHNA RAO, J.)

RS