

ORDER SHEET

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

PLA/242/2023

IN THE GOODS OF:
HARIHAR UPADHYA (DEC.)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : November 14, 2024.

Appearance:

Ms. Sananda Ganguli, Adv.
... for the petitioner

The Court: Ms. Sananda Ganguli, learned counsel, is appearing for the petitioner.

The petitioner has filed the present application for grant of probate of the last Will and Testament dated 20th February, 2017 of the deceased Harihar Upadhyia.

Counsel for the petitioner submits that as per the last Will and Testament, the testator has appointed the petitioner as executor of the last Will and Testament. The testator died on 18th April, 2023 leaving behind his two sons and two daughters, namely, Yudhister Upadhyia, Ashish Upadhyia, Kavita Pandey and Sunita Dwivedi. The mother and the wife of the testator were predeceased to the testator.

Counsel for the petitioner submits that the legal heirs i.e. both the sons and both the daughters have filed their affidavit of consent stating that they have no objection for grant of probate of the last Will and Testament dated 20th February, 2017. The attesting witnesses of the Will,

namely, Gobinda Pradhan and Pradip Kumar Jana have also filed their affidavits stating the fact that the testator has executed his last Will and Testament dated 20th February, 2017 in their presence while possessing good health and fit state of mind by appointing the petitioner as executor of his last Will and Testament. Counsel for the petitioner submits that the petitioner has proved the Will and prayed for grant of probate.

Heard learned counsel for the petitioner. Perused the original Will, death certificate of the testator, affidavits of the legal heirs of the testator and affidavits of the attesting witnesses.

It is found that the testator in his last Will and Testament dated 20th February, 2017 has appointed the petitioner as sole executor of his last Will and Testament. The legal heirs of the testator have filed their affidavits stating that they have no objection for grant of probate of the last Will and Testament to the petitioner. The attesting witnesses have categorically stated in their affidavits that the testator while possessing good health and fit state of mind has executed his last Will and Testament by appointing the petitioner as executor of his last Will and Testament.

Considering the above, this Court finds that the petitioner has proved the Will beyond reasonable doubt and there is no circumstance to raise suspicion over the execution of the Will dated 20th February, 2017. Accordingly, the petitioner is entitled to get probate of the last Will and Testament dated 20th February, 2017.

The department is directed to grant probate to the petitioner in terms of the last Will and Testament dated 20th February, 2017 after completion of all formalities.

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

PLA/242/2023 is disposed of.

(KRISHNA RAO, J.)

RS