

OD-4

ORDER SHEET

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

PLA/354/2022

IN THE GOODS OF:  
SHYAMAL GUPTA (DEC.)

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/354/2022 praying for grant of probate of the last Will and Testament of the testator Shyamal Gupta, son of late Ajay Gupta, dated 19<sup>th</sup> May, 2004.

Counsel for the petitioner submits that the testator during his lifetime executed the Will on 19<sup>th</sup> May, 2004 by appointing the petitioner as sole executor of his last Will and Testament.

Counsel for the petitioner submits that the testator died on 11<sup>th</sup> July, 2005. It is the specific case of the petitioner that the testator died bachelor leaving behind no legal heirs. Accordingly, general citations were issued and in spite of the general citations, none had filed caveat to object for grant of probate.

Counsel for the petitioner submits that after the general citation, the Registrar has submitted no caveat certificate confirming that no caveat has been lodged. Counsel for the petitioner further submits that the testator had executed his last Will and Testament in presence of three independent witnesses, out of which one witness has also filed his affidavit confirming that the testator has executed the Will by appointing the petitioner as executor of his last Will and Testament while possessing good health and fit state of mind.

Counsel for the petitioner prays for grant of probate.

Heard the learned counsel for the petitioner.

Perused the original Will, death certificate, averment made in the application, general citation issued by the petitioner and the no caveat certificate issued by the Registrar, Testamentary and Intestate Jurisdiction as well as the affidavit affirmed by the attesting witness, namely, Arun Kumar Ghosh.

Considering the above documents, this Court finds that the attesting witness in his affidavit has categorically stated that the testator has executed his last Will and Testament on 19<sup>th</sup> May, 2004 by appointing the petitioner as his sole executor while possessing good health and fit state of mind. The petitioner has issued citation but none appears and, accordingly, the department has submitted no caveat certificate.

In view of the 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.

Accordingly, the petitioner is entitled to get the probate.

The department is directed to grant probate to the petitioner of the last Will and Testament dated 19<sup>th</sup> May, 2004 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/354/2022 is disposed of.

(KRISHNA RAO, J.)