

ORDER SHEET

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

PLA/378/2023

IN THE GOODS OF :
RAJINDER KUMAR MODI ALIAS
RAJENDRA KUMAR MODI, DECEASED

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : December 16, 2024.

Appearance:

Mr. Ajay Chaubey, Adv.

Ms. Prity Panja, Adv.

...for the petitioner

The Court: Mr. Ajay Chaubey, learned advocate, is appearing for the petitioner.

The petitioner has filed the present application for grant of probate of the last Will and Testament dated 16th April, 2021 executed by the testator Rajinder Kumar Modi Alias Rajendra Kumar Modi.

Counsel for the petitioner submits that the testator executed the last Will and Testament by appointing the petitioner as his sole executor. The testator died on 21st January, 2022 leaving behind his wife Sarita Modi, his son Badri Narayan Modi (the petitioner herein) and another son Ajay Modi.

Counsel for the petitioner submits that other two legal heirs i.e. wife and another son have filed affidavit-of-consent stating that they have no objection for grant of probate of the last Will and Testament to the petitioner.

Counsel for the petitioner also submits that out of the two attesting witnesses, one of the attesting witnesses has filed affidavit stating that the testator has executed his last Will and Testament in his presence and in presence of the another attesting witness by appointing the petitioner as sole executor of his last Will and Testament while possessing good health and fit statement mind.

Counsel for the petitioner submits that the petitioner has proved the Will and is entitled to get probate.

Considered the submission made by the counsel for the petitioner. Perused the application and the original Will, death certificate of the testator, affidavit-of-consent of both the legal heirs of the testator and affidavit filed by the one of the attesting witnesses.

It is found from the affidavit of the legal heirs that they have categorically stated that the testator has executed the last Will and Testament by appointing the petitioner as sole executor and they have no objection for grant of probate.

The attesting witness has also stated in his affidavit that the testator has executed his last Will and Testament in his presence as well as in presence of another attesting witness by appointing the petitioner as sole executor while possessing good health and fit state of mind.

Considering 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 said Will. Accordingly, the petitioner is entitled to get probate.

Accordingly, the department is directed to issue probate to the petitioner of the last Will and Testament dated 16th April, 2021 after completion of all formalities.

At the time of grant of probate, a copy of the will be made as part of the probate.

PLA/378/2023 is disposed of.

(KRISHNA RAO, J.)