

OD-51

ORDER SHEET

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

PLA/473/2023

IN THE GOODS OF:
BIVA PYNE (DEC.)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : December 19, 2024.

Appearance:

Mr. Uday Narayan Betal, Adv.

Mr. Mriganka Patna, Adv.

... for the petitioner

The Court: Mr. Uday Narayan Betal, 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 25th October, 2011. Counsel for the petitioner submits that the testatrix has executed her last Will and Testament by appointing Mihir Mohan Pyne, Girin Mohan Pyne, being the son and Shri Srimanta Pyne being the grandson as her executor of the last Will and Testament.

Counsel for the petitioner submits that Girin Mohan Pyne being one of the executor has filed present application and the other two executors have renounced from their executorship on the Will and filed their affidavit of consent for grant probate to the petitioner.

The Counsel for the petitioner submits that the husband of the testatrix was pre-deceased who died on 6th September, 2002 and one of the sons of the testatrix, namely, Sisir Mohan Pyne, was pre-deceased and died

on 10th February, 1997 leaving behind his wife, namely, Sima Pyne and one son, namely, Srimanta Pyne.

Counsel for the petitioner submits out of the six legal heirs, one of the legal heir is the petitioner herein and other three legal heirs have filed their affidavit of consent but two of the legal heirs that is two daughters have not filed their affidavit of consent or any affidavit in support of caveat. Accordingly, citations were issued but the said daughters have not come forward either to file affidavit of consent or affidavit in support of caveat.

Accordingly, the department has submitted no caveat certificate on 10th December, 2024. The Counsel for the petitioner submits that one of the attesting witness, namely, Madhurima Mukherjee has also filed the affidavit stating that the testatrix has executed her last Will and Testament by appointing the petitioner, another son and one grandson as Executors of her last Will and Testament while possessing good health and fit state of mind.

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

Heard the learned Counsel for the petitioner. Perused the original Will, death Certificate of testatrix who died on 10th April, 2023, affidavit of consent of the son Mihir Mohan Pyne, the daughter in law that is the widow of Sisir Mohan Pyne and son of Sisir Mohan Pyne as well as the affidavit of the attesting witness.

This Court also finds that the other two daughters have not come forward to file affidavit of consent or affidavit in support of caveat in spite of issuance of citations and the department has submitted no caveat certificate.

Considering the above, this Court finds that the petitioner has proved the Will and is entitled to get the probate of the last Will and Testament.

Accordingly department is directed to issue probate of the last Will and Testament dated 25th October, 2011 after completion of all formalities.

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

PLA/473/2023 is disposed of.

The department is directed not to draw up the order.

(KRISHNA RAO, J.)

DB