

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

PLA/562/2022

IN THE GOODS OF:
ASHTAM KUMAR DHARA @ ASTHAM KUMAR DHARA DECED.

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : 10th December, 2024.

Appearance:
Mr. Abhishek Gupta, Adv.
...for petitioner.

The Court: Mr. Abhishek Gupta, 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 15th march, 2000 executed by testator Ashtam Kumar Dhara. Counsel for the petitioner submits that the testator had executed his Will and Testament on 15th March, 2000 by appointing the petitioner as the sole executor of his last Will and Testament in presence of the two attesting witnesses while possessing good health and fit state of mind. He submitted that at the time of death the testator left behind two legal heiresses, being the widow and the daughter.

Counsel for the petitioner submits that during the pendency of the suit the wife of the testator Purnima Dhara has expired and accordingly her death has been recorded by this Court.

Counsel for the petitioner submits that though the citations were issued but the daughter had not come forward either for giving consent or filing affidavit in support of the caveat. Counsel for the petitioner submits that the department has submitted no caveat certificate. Attesting witnesses has filed affidavit supporting the Will. In spite of issuance of citation, none appears. No caveat has been lodged. Counsel for the petitioner further

submits that out of two attesting witnesses, one of the attesting witness namely, Ashis Sarkar, has filed affidavit stating that the testator had executed his last Will and Testament in his presence as well as in presence of another attesting witness on 15th March, 2000 by appointing the petitioner as his sole executor while possessing good health and fit state of mind.

Counsel for the petitioner submits that the petitioner has proved Will and probate for grant of probate.

Perused the original Will, death certificate of the testator, who died on 21st August, 2001, no caveat certificate and affidavit submitted by attesting witness.

Considering the above, this Court finds that in spite of issuance of the citation, no one has come forward either to give consent or to lodge caveat. One of the attesting witnesses of the Will has filed affidavit stating that the testator had executed his last Will and Testament in his presence and in presence of another attesting witness by appointing the petitioner as sole testator while possessing good health and in a fit state of mind.

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

In view of the above, the department is directed to issue probate to the petitioner in terms of the last Will and Testament dated 15th March, 2000 by completing all formalities. At the time of grant of probate, the copy of the Will be made part of the probate.

PLA/562/2022 is disposed of.

(KRISHNA RAO, J.)