

ORDER SHEET

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

PLA/15/2022

IN THR GOODS OF :
DR. NIRENDRA LAL BHATTACHARYA (DECEASED)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: 24th March, 2025

Appearance:
Mr. Udaynarayan Betal, Adv.
...for the petitioner

1. Mr. Udaynarayan Betal, learned Counsel, is appearing for the petitioner.

2. The petitioner has filed the present application for grant of probate of the last Will and Testament dated 23rd July, 1993 of the testator, namely, Dr. Nirendra Lal Bhattacharya.

3. Counsel for the petitioner submits that the testator died on 10th February, 2018 leaving behind three legal heirs i.e. widow, one daughter and one son. The testator has executed his last Will and Testament in presence of two attesting witnesses. None of the legal heirs has come forward either to give consent or to file caveat or affidavit in support of caveat. Accordingly, citations were issued. In spite of issuance of citations, none of the legal heirs has come forward to object for grant of probate or give consent. Accordingly, the Department has submitted No Caveat Certificate dated 19th February, 2025 certifying that no caveat has been submitted for grant of probate.

4. To prove the Will, the petitioner has examined one of the attesting witness of the Will, namely, Mr. Braja Gopal Dey before this Court and during his evidence, he has identified the Will as well as the signature of the testator, his signature and the signature of the another attesting witness. In his evidence, he has categorically stated that the testator has executed his last Will and Testament in his presence and in presence of another attesting witness while possessing good health and fit state of mind. In his evidence, the Will has been exhibited as Exhibit A, the signatures of the testator has been exhibited as Exhibit A/1 collectively, the signature of the attesting witness has been exhibited as Exhibit A/2 and the signature of another attesting witness, Biplab Aich has been exhibited as Exhibit A/3.

5. Considered the submission made by the Counsel for the petitioner. Perused the original Will, death certificate of the testator, evidence of attesting witness.

6. This Court finds that in spite of issuance of citations, none of the legal heirs has come forward to lodge any caveat. Accordingly, the Department has issued No Caveat Certificate certifying that no caveat has been entered. Counsel for the petitioner has examined one of the attesting witness before this Court and he has proved the Will.

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

8. The Department is directed to issue probate of the last Will and Testament dated 23rd July, 1993 on compliance of all formalities.

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

10. PLA/15/2022 is disposed of.

11. The Department is directed not to draw up and complete the order.

(KRISHNA RAO, J.)

Sbghosh