

ORDER SHEET

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

PLA/159/2021

IN THE GOODS OF :
KRISHNAKANTA BHATTACHARJEE

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : 24th January, 2025.

Appearance:

Mr. Diptomoy Talukder, Adv.

Ms. Archita Chel, Adv.

Mr. Triptimoy Talukder, Adv.

...for the petitioner

The Court:- Mr. Diptomoy Talukder, 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 18th July, 2003 of the testator Sri Krishnakanta Bhattacharjee.

Counsel for the petitioner submits that the testator has executed his last Will and Testament while possessing good health and in fit state of mind by appointing the petitioner as sole executrix of his last Will and Testament.

Counsel for the petitioner submits that testator has executed his last Will and Testament in presence of the two attesting witnesses. The testator died on 19th November, 2015 leaving behind his wife, one son and one daughter. The wife of the testator died on 1st December, 2018 leaving behind one son and one daughter.

Counsel for the petitioner submits that after the filing of the application, citations were issued but the son has not come forward either to give consent or to file caveat or affidavit in support of caveat.

Counsel for the petitioner further submits that whereabouts of the two attesting witnesses were also not known. Though the petitioner has taken

appropriate steps even publication of the notice but the attesting witnesses had not come forward.

Accordingly, the petitioner has examined one witness, namely, Utpal Bandyopadhyay, being the attending witness of the Will. The witness in his evidence has categorically stated that the testator has executed his last Will and Testament in presence of two attesting witnesses while possessing good health and fit state of mind by appointing the petitioner as sole executrix of his last Will. The attending witness has identified the Will as well as the signature of the testator as well as attesting witnesses.

Heard the learned Counsel for the petitioner. Perused the Original Will, Death certificate of the Testator and his wife. It is also found that the Department has submitted no caveat certificate on 5th August, 2024, stating that no caveat had been lodged for grant of probate of the last Will and Testament. This Court also considered the evidence of the attending witness who categorically stated that the testator has executed his last Will and Testament in his presence and in presence of the two attesting witnesses and the testator as well as the attesting witnesses have signed in the Will in presence of the attending witness who has been examined before this Court as PW-1.

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

The Department is directed to issue probate to the petitioner of the last Will and Testament dated 18th July, 2003, on compliance of all formalities. At the time of grant of probate, the copy of the Will is to be made as part of the probate.

PLA/159/2021 is disposed of.

(KRISHNA RAO, J.)