

ORDER SHEET

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

PLA/85/2024

IN THE GOODS OF :
SMT MINATI CHATTERJEE, DECEASED

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : 24th February, 2025.

Appearance:

Mr. Siddhartha Lahiri, Adv.

Mr. Debraj Dutta, Adv.

Ms. Nivedita Mullick, Adv.

...for the petitioner

The Court:- Mr. Siddhartha Lahiri, 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 12th September, 2011 of the testatrix Smt. Minati Chatterjee. Counsel for the petitioner submits that the testatrix has executed her last Will and Testament by appointing the petitioner as sole executor of last Will and Testament. He submits that the testatrix died on 20th March, 2012. The husband of the testatrix was pre-deceased who died on 25th November, 1993. There was no issue in the wedlock between the testatrix and her husband. The testatrix left behind her legal heirs being the wife and children of her brother-in-law (brother of her husband). None of the legal heirs has come forward either to give consent or to file caveat or affidavit in support of caveat.

Counsel for the petitioner submits that the citations were issued but none has come forward. Accordingly the department has submits that no caveat certificate dated 20th January, 2025 stating, no caveat has been entered against the grant of probate.

Out of the two attesting witnesses, one attesting witness, namely, Sarada Hariharan has filed her affidavit stating that the testatrix has executed her last Will and Testament in her presence and in presence of another attesting witness by appointing the petitioner as sole executor of her last Will and Testament while possessing good health and fit state of mind.

Considered the submission made by the Counsel for the petitioner, perused the original Will, death certificate of the testatrix, affidavit of the attesting witness and no caveat certificate filed by the department.

In spite of issue of citations, none has come forward for lodging any caveat or to give consent. The attesting witness in her affidavit has categorically stated that the testatrix has executed her last Will and Testament in her presence and in presence of the attesting witnesses while possessing good health and fit state of mind.

This Court finds that the petitioner has proved the Will and is entitled to get the probate. Accordingly, the department is directed to issue the probate of the last Will and Testament dated 12th September, 2011 on completion of all formalities. At the time of grant of probate, the copy of the will be made as a part of the probate.

PLA/85/2024 is disposed of.

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

(KRISHNA RAO, J.)