

OD-46

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
TESTAMENTARY AND INTESTATE JURISDICTION
ORIGINAL SIDE

PLA/132/2024

IN THE GOODS OF:
ASHIS KUMAR SEN DECEASED

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: 25th February, 2025.

Appearance:
Ms. Dipika Basu, Adv.
Mr. Subhadip Chakraborty, Adv.
Ms. Bolivia Roy, Adv.
...for the petitioner

The Court: Ms. Dipika Basu, learned Counsel, is appearing for the petitioner.

Petitioner has filed the present application for grant of probate of the last Will and Testament dated 14th July, 2009 of the testator Ashish Kumar Sen. Counsel for the petitioner submits that in the Will itself the testator has mentioned that he was an unmarried. The testator died on 25th October, 2020.

The petitioner has mentioned with regard to the relation of the testator being the elder brother but he was also pre-deceased to the testator who died on 10th July, 1996. The sister in law of the testator was also the pre-deceased who died on 27.7.2020 and the petitioner is the niece of the testator.

As other than the petitioner no legal heirs have come forward, accordingly citations were issued. Even, after the issuance of citations none has come forward either to give consent or to raise any objection by filling caveat. Accordingly, on 10th February, 2025, the department has provided no caveat certificate certifying that no caveat has been entered for grant of probate. One of the attesting witnesses of the Will namely, Prodosh Nath, has filed an affidavit stating 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 by appointing the petitioner as sole executor of his last Will and Testament.

Heard the learned Counsel for the petitioner. Perused the original Will, death certificate of the testator, affidavit of the attesting witness, and no caveat certificate filed by the department.

Considering the above, this Court finds that inspite of issuance of citation none has come forward to raise any objection for grant of probate.

The department has also submitted no caveat certificate certifying that no caveat has been lodged. The attesting witness in his affidavit categorically stated that the testator has executed his last Will and Testament in his presence and in presence of another attesting witness while possessing the good health and fit state of mind by appointing the petitioner as a sole executor.

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

The department is directed to issue probate to the petitioner of the last Will and Testament on compliance of all formalities. At the time of grant of probate a copy of the Will be made as part of the probate.

PLA/132/2024 is disposed of.

(KRISHNA RAO, J.)

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