

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

PLA/99/2023

IN THE GOODS OF:
SRI ARUN KRISHNA DAW, DECEASED

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: 20th January, 2025.

Appearance:

Mr. Parashar Baidya, Adv.

Mr. P. Mukherjee, Adv.

...for the petitioner.

The Court : Mr. Parashar Baidya, 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 27th April, 2018 of the testator Sri Arun Krishna Daw.

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

The petitioner says that the testator died on 6th June, 2018. The wife of the testator died on 30th January, 2023. Counsel for the petitioner submits that as the Will was in possession of the wife of the testator and as such, the petitioner could not applied to file the probate application immediately after the death of the testator and after the death of the

mother, the petitioner came to know about the said Will and the petitioner has filed the present application.

The petitioner says that the testator died leaving behind two daughters and one son. The son is the executor/petitioner in the present application. Out of two daughters, one daughter has given consent and one daughter has neither given consent, nor has filed any caveat or affidavit in support of the caveat.

The petitioner says that citations were issued but in spite of issuance of the citations, none has come forward to raise any objection for grant of probate.

Accordingly, the Department has provided no caveat certificate dated 3rd December, 2024 certifying that no caveat has been entered against the grant of probate of the last Will and Testament.

The petitioner says that one daughter has filed her affidavit of consent stating that she has no objection for grant of probate. The petitioner further says that out of three attesting witnesses, one attesting witness namely, Mukul Sinha has filed his affidavit stating that the testator has executed his last Will and Testament in his presence and in the presence of other two attesting witnesses by appointing the petitioner as sole executor of his last Will while possessing good health and fit state of mind. He submits that the petitioner has proved the Will and is entitled to get the probate.

Heard learned counsel for the petitioner. Perused the original Will, death certificate of the testator, death certificate of the wife of the testator, affidavit of consent of one of the daughters namely, Smt. Tanusree Dutta and affidavit of one of the attesting witnesses namely, Mukul Sinha.

This Court also considered the no caveat certificate issued by the Department wherein it has been certified that no caveat has been entered into for grant of probate.

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

Accordingly, the Department is directed to issue probate of the last Will and Testament dated 27th April, 2018 on completion of all formalities.

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

Accordingly, PLA/99/2023 is disposed of.

(KRISHNA RAO, J.)