

OD-47

ORDER SHEET

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

PLA/114/2023

IN THE GOODS OF
ASOKE KUMAR MITRA @ ASHOK MITRA @ ASHOKE KUMAR MITRA,
DECEASED

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : January 10, 2025

Appearance:

Ms. Dipika Banu, Adv.

Mrs. Mamoni Shaw, Adv.

Mr. S. Chakraborty, Adv.

Ms. B. Roy, Adv.

...for the petitioner.

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

The petitioner has filed the present application for grant of probate of the last Will and Testament dated 17th May, 2013 executed by the testator, namely, Mr. Ashoke Kumar Mitra wherein the testator has appointed the petitioner as sole executrix of his last Will and Testament.

Counsel for the petitioner submits that the original Will dated 17th May, 2013 is a registered Will but the same was lost and accordingly, on 23rd March, 2022 a GD (General Diary) was lodged before the Officer-In-Charge, Dum Dum Police Station, Kolkata-28.

Counsel for the petitioner submits that the testator died on 1st February, 2014 by leaving behind the petitioner and his daughter as his legal heirs. Counsel for the petitioner submits 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.

Counsel for the petitioner submits that as the original Will was lost and the petitioner is relying the certified copy of the Will. Accordingly, the petitioner has examined one of the attesting witness of the Will, namely, Ram Narayan Roy before this Court and during his evidence, he has categorically stated that the testator has executed his last Will and Testament in his presence and in presence another attending witness while possessing good health and fit state of mind by appointing the executrix has sole executrix. The P.W.1, namely, Ram Narayan Roy, identified the Will, signature of testator and attesting witness and the Will has been marked as Exhibit A and the signature of the testator has been marked as Exhibit A/1 and the signature of the attesting witnesses have been marked as Exhibit A/2 and A/3.

Counsel for the petitioner submits that the petitioner she has also examined the Officer from the office of the Additional Registrar of Assurance, namely, Tanima Das and in her evidence she has categorically stated that the Will was duly registered before this Additional Registrar of Assurance-III, Kolkata on 17th May, 2013. She has identified the Will and number appearing in the certified copy of the Will. During her evidence, the

signature of the Sub-Registrar, number and date have been marked as Exhibit A/5 to A/7.

The petitioner have also examined the Officials of PS - Ranaghat wherein the GD entry was made by the petitioner with regard to loss of the Will has been proved being GD No. 1768 dated 23rd March, 2022 and the said report has been marked as Exhibit B.

Considered the submission made by the Counsel for the petitioner. Perused the certified copy of the Will, evidence of PW-1, PW-2 and PW-3 and death certificate, 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 to the petitioner after compliance of all formalities.

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

PLA/114/2023 is disposed of.

(KRISHNA RAO, J.)