

OD-38

ORDER SHEET

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

PLA/192/2024

IN THE GOODS OF :
SWAPAN MUKHERJEE (DECEASED)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: March 10, 2025.

Appearance:
Mr. Pushan Majumdar, Adv.
...for the petitioner

The Court: Mr. Pushan Majumdar, learned Counsel, is appearing for the petitioner.

The petitioner has filed the present application for grant of probate of the last Will and Testament of the testator, namely, Swapan Mukherjee dated 17th June, 2018. The testator died on 10th July, 2020 leaving behind three legal heirs i.e. wife, son and daughter.

As per the Will, the testator has appointed his son and daughter as joint executor and executrix of his last Will and Testament but only the son has filed the present application and the daughter has given her no objection for grant of probate to the petitioner of the last Will and Testament.

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. Out of two attesting witnesses,

one attesting witness 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 and his daughter as the executor and executrix of the said Will. The wife and his daughter have given no objection for grant of probate.

Considered the submission made by the Counsel for the petitioner. Perused the original Will, death certificate of the testator, affidavit of consent of wife of the testator and the daughter of the testator, affidavit of attesting witness.

The legal heirs i.e. wife and daughter of the testator have categorically stated that they have no objection for grant of probate to the petitioner. The attesting witness in his affidavit has stated that the testator has executed his last Will and Testament in his presence and in the presence of another attesting witness while possessing good health and fit state of mind by appointing the petitioner and daughter of the testator as joint executor and executrix of his last Will and Testament.

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 dated 17th June, 2018 on compliance of all formalities.

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

PLA/192/2024 is disposed of.

The department is directed not to draw up and complete the order.

(KRISHNA RAO, J.)

Sbghosh