

OD-41

ORDER SHEET

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

PLA/209/2024

IN THE GOODS OF:
SHYAM SUNDAR CHOUDHARY, DECEASED

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date : March 11, 2025.

Appearance:

Mr. Harsh Tiwari, Adv.
Mr. Bhupendra Gupta, Adv.
Mr. Ojasvi Gupta, Adv.
Mr. Anwar Hossain, Adv.
...for the petitioner

The Court: Mr. Harsh Tiwari, 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 10th December, 2022 of the testator, namely, Shyam Sundar Choudhary,

Counsel for the petitioner submits that the testator had executed his last Will and Testament on 10th December, 2022 in presence of two attesting witnesses while possessing good health and fit state of mind by appointing the petitioner as sole executor of his last Will and Testament.

Counsel for the petitioner submits that the testator died on 24th December, 2022 leaving behind five legal heirs i.e. daughter-in-law, two daughters and two grandsons. The wife of the testator predeceased, who died on 20th July, 2007.

Counsel for the petitioner submits that all the legal heirs have filed their affidavit-of-consent stating that they have no objection for grant of probate of the last Will and Testament to the petitioner.

The attesting witnesses have filed their affidavits stating that the testator had executed his last Will and Testament in their presence while possessing good health and fit state of mind by appointing the petitioner as sole executor of his last Will and Testament.

Considered the submission made by the counsel for the petitioner.

Perused the original Will, death certificate of the testator, affidavit of consent of all legal heirs and affidavit of the attesting witnesses.

This Court finds that all the legal heirs have filed their no objection for grant of probate to the petitioner in terms of the Will. The attesting witnesses are the daughters of the testator and in their affidavit they have stated that testator had executed his last Will and Testament while possessing good health and fit state of mind.

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 of the last Will and Testament dated 10th December, 2022 to the petitioner on compliance of all formalities.

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

PLA/209/2024 is disposed of.

Counsel for the petitioner has drawn the attention of this Court to the Will at page no.1 in paragraph no.1 line no.4 wherein the date of the Will

has been inadvertently recorded as 10th December, 2021 though the actual date of execution is 10th December, 2022 which is appearing in page no.4 of the Will.

Counsel for the petitioner has also drawn the attention of this Court to the affidavits of the attesting witnesses wherein they have stated the date of execution of the last Will and Testament is 10th December, 2022.

Accordingly, this Court finds that the date of the Will is inadvertently recorded as 10.12.2021 instead of 10.12.2022 in paragraph 1 page 1 of the Will.

(KRISHNA RAO, J.)