

ORDER SHEET

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

PLA/194/2022

IN THE GOODS OF:
KAMALA BALA RAY (DEC.)

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date : January 13, 2025

Appearance:
Mr. K. N. Jana, Adv.
...for the petitioner.

The Court: Mr. K. N. Jana, learned Counsel, is appearing for the petitioners.

The petitioners have filed the present application for grant of Letters of Administration of the Last Will and Testament of the deceased, namely, Kamala Bala Ray dated 7th July, 1968.

Counsel for the petitioners submits that the testatrix has executed her last Will and Testament by appointing her son-in-law, namely, Shriman Shailendra Majumder, as an executor of her last Will and Testament but Shriman Shailendra Majumder has expired and in the said Will the sons of testatrix have been made as beneficiaries of the assets left behind by the testatrix. The petitioners are the sons of one of the son of testatrix, namely, Manas Ray.

Counsel for the petitioners submits that at present altogether six legal heirs are available. Out of six legal heirs two are the petitioners before this Court who have prayed for Letters of Administration and other legal

heirs have filed their affidavit of consent stating that they have no objection for grant of Letters of Administration to the petitioners.

Counsel for the petitioners submits that the Will is of 1968 and both the attesting witnesses also passed away and as such it is not possible for the petitioners to bring the attesting witnesses before this Court to prove the Will. Accordingly, the petitioners have proved the Will by examining one attending witness, namely, Kanika Ray. The said witness was examined on commission. In her examination, the said witness had categorically stated that Smt. Kamala Bala Roy, testatrix was fit state of mind and has executed her last Will and Testament in her presence and in presence of two attesting witnesses. In her evidence, she has identified the Will, the signature of the testatrix and the signature of the attesting witnesses. The said witness has identified the Will, the signature of the testatrix and the signature of the attesting witnesses. The Will is marked as Exhibit A, the signatures of the testatrix are marked as Exhibit A/1 collectively and the signatures of attesting witnesses are marked as Exhibit A/2, A/3 and A/4 collectively.

Counsel for the petitioners submits that though the Will is of 1968 but the petitioners have filed the said application for grant of Letters of Administration only in the year 2022 as in the meantime, the executor appointed by the testatrix has expired. Subsequently, one of the beneficiaries has also expired. Thereafter the Will was not traceable and after getting the Will, the petitioners have filed their present application.

Considered the submission made by the Counsel for the petitioners. Perused the original Will as well as translated copy of the Will in English language, affidavit of consent of all legal heirs, evidence of attending

witnesses, the death certificate of the testatrix who died on 12th December, 1986, the death certificate of Manas Ray who died on 28th June, 1994 and the death certificate of Tapas Ranjan Ray who died on 9th August, 2008.

Considering the above, this Court finds that the Will is of 1968 and none of the attesting witnesses are available. As such the petitioners have examined the attending witness and the attending witness in her evidence has categorically stated that testatrix has executed her last Will and Testament in her presence by possessing good health and fit state of mind in presence the attesting witnesses. She has also identified the Will, signature of the testatrix and the signature of the attesting witness.

Considering the submissions made by the Counsel for the petitioners, this Court finds that the petitioners have proved the case and is entitled to get Letters of Administration of the last Will and Testament dated 7th July, 1968.

Accordingly, the Department is directed to grant Letters of Administration to the petitioners of the Will dated 7th July, 1968 upon furnishing a bond of Rs. 5,00,000/- with two sureties (Rs.2,50,000/- each) on compliance of all formalities.

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

PLA/ 194/2022 is disposed of.

(KRISHNA RAO, J.)