

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

PLA/193/2023

IN THE GOODS OF:
SHYAM SUNDAR DALMIA (DEC)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: 3rd March, 2025.

Appearance:

Ms, Suchismita Chatterjee Ghosh, Adv.

Mr. Malay Kr. Seal, Adv.

...for the petitioner.

The Court : Ms. Suchismita Chatterjee Ghosh, 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 Shyam Sundar Dalmia dated 15th January, 2020 which was registered on the same day.

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. The testator died on 20th February, 2023 leaving behind four legal heirs i.e. wife, son and two daughters. All the legal heirs have filed their affidavits of consent stating that they have no objection for grant of probate to the petitioner of the last Will and Testament of the testator dated 15th January, 2020. Two attesting witnesses have also filed their affidavits stating that the testator has 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.

Counsel for the petitioner further brought to the notice of this Court that one of the properties is situated at Mathura District, State of Uttar Pradesh which is outside the jurisdiction of State of West Bengal and accordingly, citations were issued under Section 283(3) of the India Succession Act. But none has come forward to raise any objection and the Department has submitted no caveat certificate.

Heard learned counsel for the petitioner and perused the original Will, death certificate of the testator, affidavits of consent of all the legal heirs, affidavits of attesting witnesses and the no caveat certificate.

This Court finds that all the legal heirs in their affidavits have categorically stated that they have no objection for grant of probate of the last Will and Testament of the testator to the petitioner. The attesting witnesses in their affidavits have also categorically stated that the testator has 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.

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 the probate of the last Will and Testament dated 15th January, 2020 on compliance of all formalities.

The Department is also directed not to complete and draw the order.

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

Thus, PLA No. 193 of 2023 is disposed of.

(KRISHNA RAO, J.)