

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

Present:

The Hon'ble Justice Sugato Majumdar

PLA/260/2022

IN THE GOODS OF :

SUBHAS CHANDRA CHAKRABORTY (DEC)

For the Petitioner : Ms. Debjani Ghosh, Adv.
Ms. Nafisa Yasmin, Adv.

Hearing concluded on : 30/04/2025

Judgment on : 02/05/2025

Sugato Majumdar, J.:

This is an application praying for grant of probate to the last will and testament of the Testator dated 20/06/1995.

The Testator Subhas Chandra Chakraborty, since deceased, breathed his last on 5th May, 2014 at 58, S.N. Basu Sarani, Subhas Pally, Benachity, Durgapur, Pachim Burdwan, Pin – 713213 and last place of abode of the Testator was “Juranaloy”, 58, Satyen Bose Sarani, Subhas Pally, Police Station, Post Office and Sub-Division – Durgapur, District-Burdwan, Pin – 713213. At the time of death, the Testator left behind him, his wife Namita Chakraborty, two sons – Tapan Kumar Chakraborty and Tarun Kumar Chakraborty, one daughter Ira Banerjee and one granddaughter.

Prior to death, the Testator executed his last will and testament on 20th June, 1995.

Wife of the Testator expired on 02/08/2016, address of the elder son is not known and he lives separately from the Testator. The younger son is the beneficiary.

The instant application is filed, praying for grant of probate of the said last will and testament of the Testator.

Citations were issued. None filed caveat. The proceeding became non-contentious.

It is stated in application that both the attesting witnesses expired. One attending witness Pranati Bhattacharya deposed as a witness. The Testator was the father-in-law of the daughter of the witness. She identified the death certificate. She stated in evidence that she was present when the will was executed. She was present along with her husband at the time of execution of the will. Wife of the Testator and two attesting witnesses, namely, Manoranjan Dey and Shiba Prasad Mondal as well as one advocate was also present. She identified the signatures of the attesting witnesses. The Testator signed first then Manoranjan Dey signed and then Shiba Prasad Mondal signed the will. The will is a registered one. The will was executed and attested in her presence and she identified the signatures.

In terms of Section 68 of the Indian Evidence Act, 1872, execution of the will is to be proved by at least one attesting witness. Since the attesting witnesses are dead, Section 69 will come to play, according to which it must be proved that the attestation of at least one attesting witness is in his handwriting and that the signature of the person executing the document in the handwriting of the person. PW 1 proved the execution of the will by the Testator and the attesting witnesses. It is proved that the will was executed in accordance with Section 63 of the Indian Succession Act, 1925.

Let the probate be granted.

Inventory and accounts shall be filed within six months.

The instant application stands disposed of.

(SUGATO MAJUMDAR, J.)