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

PLA/231/2023
IN THE GOODS OF –
SANKARI MALLICK, DECEASED

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: 27th January, 2025.

Appearance:
Ms. Subhra De, Adv.
Mr. Sudip Kumar Datta, Adv.
...for the petitioner.

The Court : Ms. Subhra De, 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 15th October, 2014 of the testatrix namely, Sankari Mallick.

Counsel for the petitioner submits that the testatrix has executed her last Will and Testament in presence of two attesting witnesses while possessing good health and fit state of mind by appointing the petitioner as sole executor of her last Will and Testament.

Counsel for the petitioner submits that the testatrix died on 19th November, 2014. The husband of the testatrix was predeceased to the testatrix who died on 7th April, 1995. In the wedlock between the testatrix and her husband, there is no issue and the petitioner has categorically stated in paragraph 8 of the present application.

Counsel for the petitioner submits that after filing of the application, citations were issued but none has come forward to raise any objection for the grant of probate of the last Will and Testament. Accordingly, the Department has submitted no caveat certificate dated 6th December, 2024 stating that no caveat has been entered for grant of probate of the last Will and Testament.

The petitioner submits that out of two attesting witnesses, one attesting witness was also expired and another attesting witness, namely, Prasanta Kumar Dutta has filed his affidavit stating that the testatrix has executed her last Will and Testament in his presence while possessing good health and fit state of mind and in presence of another attesting witness by appointing the petitioner as sole executor of her last Will and Testament.

Heard learned counsel for the petitioner and perused the original Will as well as the translated copy of the Will in English. This Court also considered the death certificate of the testatrix and her husband.

This Court finds that the Department has submitted no caveat certificate certifying that no caveat has been lodged for grant of probate. One of the attesting witnesses of the Will in his affidavit has categorically stated that the testatrix has executed her last Will and Testament in his presence and in presence of another attesting witness on 15th October, 2014 while possessing good health and fit state of mind by appointing the petitioner as sole executor of her 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 of the last Will and Testament dated 15th October, 2014 on compliance of all formalities.

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

Accordingly, PLA No. 231 of 2023 is disposed of.

(KRISHNA RAO, J.)

KB
AR (CR)