

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

PLA/306/2023
IN THE GOODS OF:
BHAGWATI DEVI KARNANI (DEC.)

BEFORE:

The Hon'ble JUSTICE KRISHNA RAO

Date: 17th February, 2025.

Appearance:

Mr. Manoj Kumar Singh, Adv.

Mr. Sreyas Basu Dasgupta, Adv.

Mrs. Suparna Biswas, Adv.

...for the petitioner.

The Court : Mr. Manoj Kumar Singh, 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 20th September, 2022 executed by the testatrix Bhagwati Devi Karnani.

Counsel for the petitioner submits that the testatrix has appointed the petitioner being her younger son as sole executor of her last Will and Testament in presence of two attesting witnesses. He submits that the testatrix died on 16th March, 2023 leaving behind five legal heirs i.e. husband, two daughters and two sons. Out of five legal heirs, the petitioner is one of the legal heirs and the husband and two daughters have given their consent. The elder son Manoj Kumar Karnani has neither come forward for giving consent, nor filed any affidavit in support of the caveat. Accordingly, citations were issued. But in spite of issuance of citations, the elder son has not come forward. The Department has submitted no caveat certificate dated 6th March, 2024 stating that no caveat has been lodged against the grant of probate of the last Will and Testament.

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

Heard learned counsel for the petitioner.

Perused the original Will, death certificate of the testatrix, affidavits of consent of the husband and two daughters, the no caveat certificate submitted by the Department and affidavit of attesting witness.

This Court finds that three legal heirs have filed their affidavits stating that they have no objection for grant of probate to the petitioner. The attesting witness 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 while possessing good health and fit state of mind by appointing the petitioner as sole executor.

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 to the petitioner of the last Will and Testament dated 20th September, 2022 after 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. 306 of 2023 is disposed of.

(KRISHNA RAO, J.)